BOMBAY ACT No. III OF 1901.

An Act for the better management of municipal affairs in mofussil towns and cities.

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BOMBAY ACT NO. III OF 1901.[1]

[*1st April, 1901.*]

An act for the better management of municipal affairs in mofussil towns and cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than the City of Bombay ; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. (*1*) This Act may be cited as the Bombay District Municipal Act, 1901.

Local extent. (*2*) It extends to the whole of the Presidency of Bombay, except the [2]City of Bombay.

Commencement. (*3*) It shall come into force on the first day of April, 1901.

Repeal. 2. (*1*) The Bombay District Municipal Acts of 1873 and 1884 are hereby repealed :

Bom. VI of 1873.
Bom. II of 1884.

Provided that

Saving clause. (*a*) the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments ;

(*b*) all Municipalities constituted, municipal commissioners appointed or elected, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into, and suits and other proceedings instituted, under the said Acts or under any enactments thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act ; and

(*c*) any enactment of the Governor of Bombay in Council, or document referring to any such repealed enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Bom. II of 1899. (*2*) Of the [3]Bombay Prevention of Adulteration Act, 1899, in section 5, the

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[1] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1899, Pt. V, p. 133 ; for Report of Select Committee, *see ibid*, 1900, p. 1 ; and for Proceedings in Council, *see ibid*, 1899, p. 216 ; *ibid*, 1900, p. 33 ; *ibid*, 1901, pp. 123, 134, 155 and 174.
Ss. 76, 77, 79, 80 and Schedule D have been extended to the cantonment of Ahmednagar subject to certain restrictions and modifications, *see* Gazette of India, 1905, Pt. I, p. 19.

[2] As to the City of Bombay, *see* the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. III of this Code, p. 975.

[3] *Supra*, p. 1506.

whole of sub-section (*2*), and clause (*b*) of sub-section (*3*), and in section 6, the whole of sub-section (*2*) are hereby repealed.

Definitions.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context—

(*1*) "City Municipality" shall mean any Municipality which

(*a*) is one of those specified in Schedule E, or

(*b*) has been declared under sub-section (*1*) of section 181 a City Municipality,

and which has not ceased, under sub-section (*2*) of section 181, to be a City Municipality.

(*2*) "Councillor" shall mean any person legally a member of a Municipality constituted under this Act.

(*3*) "Commissioner" shall mean the commissioner of a division appointed under the [1]Bombay Land-Revenue Code, 1879, and in Sind, the Commissioner in Sind; provided that nothing in this Act shall affect the powers of the Governor in Council, under the provisions of Act V of 1868, to delegate any of the powers of the Governor in Council under this Act to the Commissioner in Sind. Bom. V of 1879.

(*4*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, Joint Subordinate Judge, or a Judge appointed under the [2] Dekkhan Agriculturists' Relief [Acts][3], 1879 to 1895.

(*5*) "Municipal district" shall mean any local area which is at present a municipal district, and any local area which may hereafter be constituted a municipal district under section 4, if such municipal district has not ceased to exist under the provisions of the said section.

(*6*) "Land" shall include land which is built upon or covered with water.

(*7*) "Building" shall include any hut, shed, or other enclosure, whether used as a human dwelling or otherwise, and shall include also walls, verandahs, fixed platforms, plinths, door-steps, and the like.

(*8*) "Owner" shall include the person for the time being receiving the rent of lands and buildings or either of them, whether on his own account or as agent or trustee for any other person or for any society, or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant: Provided that no person receiving the rent of any land or building as agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of, or due to, the owner sufficient to pay for the same; nor shall he be subject to any

[1] Vol. II of this Code, p. 634.
[2] Vol. I of this Code, p. 141.
[3] The word "Acts" was substituted for the word "Act" by the Bombay District Municipal Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *see infra*, p. 1642.

penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required.

(*9*) " Salaried servant of Government " shall not include a retired servant of Government in receipt of a pension, or a person in receipt of a salary from Government who is not a full-time servant of Government.

(*10*) " Official year " shall mean the year commencing on the first day of April.

(*11*) " Annual letting value " shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situated threin or thereon, might reasonably be expected to let from year to year.

(*12*) " Street " shall mean any road, footway, square, court, alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not ;

and shall include every vacant space, notwithstanding that it may be private property, and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(*13*) " Public street " shall mean any street—

(*a*) over which the public have a right of way, or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired, out of municipal or other public funds, or

(*c*) which under the provisions of section 90 is declared by the Municipality to be, or under any other provisions of this Act becomes, a public street.

(*14*) " Tax " shall include any toll, rate, cess, fee or other impost leviable under this Act.

(*15*) " Nuisance " shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*16*) " Dangerous disease " shall mean cholera, plague, small-pox, and any endemic, epidemic, or infectious disease by which the life of man is endangered.

(*17*) " Vehicle " shall include bicycles, tricycles and automotor cars, and every wheeled conveyance which is used or capable of being used on a public street.

(*18*) " Public securities " shall mean —

(*a*) securities of the Government of India,

(*b*) stocks, debentures or shares in Railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council,

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India, or

(*d*) a security expressly authorised by any order which the Governor in Council makes in this behalf.

(*19*) In Sind the words "*Sindh Official Gazette*" shall be deemed to be substituted for the words "*Bombay Government Gazette*" wherever they occur in this Act.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(*1*) *Municipal Districts.*

Declaration of municipal districts.

4. (*1*) Subject to the provisions of sections 6, 7 and 8, the Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, declare any local area to be a municipal district, and may from time to time, by a like notification, extend, contract or otherwise alter the limits of any municipal district, or declare that any local area shall, from a date to be specified in the notification, cease to be a municipal district.

Limits to be specified in notification.

(*2*) Every such notification constituting a new municipal district, or altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included in or excluded from such municipal district, as the case may be.

Erection and maintenance of boundary marks.

(*3*) It shall be the duty of the Municipality in every municipal district already existing, and of every Municipality newly constituted under this Act, and of every Municipality whose local limits are altered as aforesaid, to cause, at their own cost, to be erected or set up, if and when so required by the Collector, and thereafter to maintain, at their own cost, substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or the altered limits of the municipal district subject to its authority, as set forth in the notification.

Property and rights of Municipality which has ceased to exist to vest in Government.

(*4*) When any local area ceases to be a municipal district, the Municipality constituted therein shall cease to exist, and the property and rights vested in any such Municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of the Governor in Council for the benefit of the local area in which such Municipality had jurisdiction.

Municipal districts to be periodical or permanent.

5. Municipal districts constituted under section 4 may be either periodical or permanent.

What local areas may be declared to be periodical municipal districts.

6. Any local area in which a periodical fair is held or which is visited periodically by pilgrims, together with any neighbouring local area to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a periodical municipal district at and throughout certain specified recurring seasons.

What local areas may be declared to be permanent municipal districts.

7. (*1*) Any local area which comprises—

(*a*) a city, town or station or two or more neighbouring cities, towns and stations, with or without any village, suburb, or land adjoining thereto, or

(*b*) a village or suburb or two or more neighbouring villages and suburbs,

may be declared a permanent municipal district :

Provided that, except—

(*a*) in the case of hill-stations, or

(*b*) for exceptional reasons, which shall be clearly set forth in the proclamation under section 8 and in the notification issued under section 4,

it shall not be lawful—

(i) to include any city, town, station or suburb in a permanent municipal district with any other city, town, station or suburb from which it is separated by an extent of more than one mile of land unoccupied by houses ; or

(ii) to constitute any municipal district in any area of which the population is less than two thousand.

Naming of municipal districts comprising two or more places.

(*2*) When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Commissioner.

Permanent municipal districts.

8. (*1*) Not less than two months before the publication of any notification declaring any local area a permanent municipal district, or altering the limits of any such district, or declaring that any local area shall cease to be a municipal district, the Governor in Council shall cause to be published in the *Bombay Government Gazette*, in English, and in at least one of the local newspapers, if any, in the language of the district in which such local area is situated, and to be posted up in conspicuous spots in the said local area in the language of the said district, a [1]proclamation announcing that it is proposed to constitute such local area a municipal district, or to alter the limits of the municipal district in a certain manner, or to declare that such local area shall cease to be a municipal district, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to the Collector within two months from the date of the said

[1] For instance of such a proclamation, *see* Bombay Government Gazette, 1908, Pt. I. A., p. 21.

proclamation, and whenever it is proposed to add to or exclude from a municipal district any inhabited area, it shall be the duty of the Municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(*2*) The Collector shall, with all reasonable despatch, forward every objection so submitted to Government.

(*3*) No such notification as aforesaid shall be issued by the Governor in Council unless the objections, if any, so submitted are, in his opinion, insufficient or invalid.

(*2*) *Municipalities.*

Constitution and incorporation of Municipalities.

9. In every municipal district there shall be a Municipality, and every such Municipality shall be a body corporate by the name of "The Municipality of—", and shall have perpetual succession and a common seal, and may sue and be sued in their corporate name.

Municipalities to consist of elected and nominated councillors.

10. (*1*) Except as is hereinafter otherwise provided, every such Municipality shall consist of—

(*a*) elected councillors ;

(*b*) nominated councillors, if any, that is to say, such persons, as from time to time

(i) are by name appointed in this behalf by, or

(ii) are executing the functions of any office from time to time notified [1] in this behalf by the Commissioner :

In specified proportions.

Provided that the number of elected councillors shall be not less than one-half of the whole number, inclusive of the president, and that not more than one-half of the nominated councillors shall be salaried servants of Government.

Failure to elect.

(*2*) Any vacancies due to failure to elect the full number of elected councillors which under this section might be elected, may, notwithstanding anything in this Act contained, be filled up by nomination by the Commissioner.

The Governor in Council may determine number of councillors ; fix proportion of elected and nominated councillors ; and make rules for regulating elections.

11. The Governor in Council shall from time to time, generally or specially for each Municipality,—

(*a*) determine [1] the number of councillors ;

(*b*) fix,[1] subject to the provisions of the last preceding section, the proportion of the councillors, if any, who shall be nominated ;

(*c*) make rules consistent with this Act, for

(*i*) fixing the dates and the time and manner of holding elections, general or casual, of councillors to be elected ;

(*ii*) prescribing the number to be elected by the rate-payers, or by sections of the inhabitants, or by public bodies or associations, if any, and the qualifications of candidates and of voters other than as hereinafter provided ;

[1] For notifications issued under this clause, *see* the list in the addenda to the list on p. cxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

(*iii*) preparing and revising the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals, or any trustees of any building or land, being two or more in number, entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

(*iv*) determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

(*v*) prescribing the date subject to the provisions of sub-section (*1*) of section 13 for the publication of the Municipal Election Roll ;

(*vi*) regulating generally such elections.

Provision as to admission of certain qualifications.

12. Subject to the provisions of section 13 and to the disqualifications mentioned in section 15 and sub-sections (*3*) and (*6*) of section 22 as regards candidates, and in section 21 as regards voters,

(*a*) every Honorary Magistrate, and

(*b*) every Fellow and every Graduate of any University, and

(*c*) every Advocate of the High Court and every Pleader holding a Sanad from the High Court, and

(*d*) every juror and assessor,

who, for a period of not less than six months next preceding the date on which by the said rules a list of voters is required to be prepared or revised in a Municipal district for election purposes has been resident in that district, and

(*e*) every person who for the like period has been paying taxes, other than octroi or toll, imposed in that district, of an amount not less than such minimum as shall for the time being be fixed for that municipal district, by the Governor in Council in the case of City Municipalities and by the Commissioner in other cases, shall be qualified as a candidate, and to be entered in the list of voters for the said district.

Operation of lists.

13. (*1*) When, in accordance with rules framed under sub-clauses (iii) and (iv) of clause (*c*) of section 11, a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such,

date as may be prescribed by the Rules, and shall continue in operation for a period of twelve months from that day :

Provided that if a new Election Roll is not published in any year before the date prescribed, the Roll then in operation shall continue in operation until the new Roll is published.

Right to vote to depend on entry in Roll.

(*2*) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (*1*), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Constitution of Municipalities in exceptional cases.

14. (*1*) (*a*) Nothing in the three sections last preceding shall apply to any permanent municipal district at a hill station, or to any permanent municipal district to which, owing to the smallness of such district, or to the backward state or indifference of its inhabitants, or for other such exceptional reason, the Governor in Council shall, in a notification [1] setting forth such reasons and published in the *Bombay Government Gazette*, at any time declare the provisions of the said sections to be unsuitable.

(*b*) In any such municipal district the Municipality shall consist either entirely of nominated councillors, or partly of nominated and partly of elected councillors, in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as the Governor in Council in the notification published under clause (*a*), or in any subsequent notification published as aforesaid, shall think fit to prescribe.

(*c*) It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section ; and in the event of any notification under clause (*a*) being rescinded, the Municipality affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with the three sections last preceding.

Periodical municipal districts.

(*2*) The powers and duties conferred and imposed by this Act on Municipalities shall, in a periodical municipal district, be respectively exercised and discharged by a neighbouring Municipality nominated in this behalf by Government, or by a Municipality specially constituted for the time being and consisting of such councillors nominated in such manner as the Governor in Council directs.

Taxes, rules and by-laws in periodical municipal districts.

(*3*) If in any periodical municipal district, any tax has been or shall have been imposed, or any rule or by-law has been or shall have been made, under the provisions of this Act or any Act hereby repealed, such tax, unless and until it has been modified, suspended or abolished, shall be leviable, and such rule or by-law, unless and until it has been altered or rescinded, shall have effect, in such district, throughout each recurring season during which the district is, by virtue of a declaration under section 6, a periodical municipal district.

[1] For notifications issued under this section, see the addenda to the list on p. ccxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

(*3*) *Municipal Councillors.*

15. (*1*) No person may be a councillor— General disqualifications for becoming councillor.

(*a*) who,

(i) having been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, or

(ii) having been dismissed from Government service, such dismissal having been notified as debarring him from re-employment, or

(iii) being a pleader, whose sanad has been withdrawn by the High Court,

(iv) having been removed from office under section 16,

has not, by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf, been relieved from disqualification arising on account of such sentence, or dismissal, or withdrawal of sanad or removal from office, or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent, or

(*c*) who is less than twenty-one years of age, or who is of the female sex, or

(*d*) who is a Judge ;

and no person

(*e*) who is a subordinate officer or servant of a Municipality, or

(*f*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a Municipality, or in any contract or employment with, or under, or by, or on behalf of a Municipality,

may be a councillor of such Municipality :

Provided that—

a person shall not be deemed to have incurred such disqualification or to have any share or interest in any such work or in any such contract or employment, by reason only of his—

(i) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same,

(ii) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Municipality, or

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Municipality may be inserted, or

(iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or

(v) being professionally engaged on behalf of the Municipality as a legal practitioner, or

(vi) having a share or interest in the occasional sale of any article in which he regularly trades, to the Municipality to a value not exceeding, in any one official year, five hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of Government may fix in this behalf, or

(vii) being a party to any agreement made with the Municipality under the provisions of [1] [section 71] or of proviso (*a*) to sub-section (*1*) of section 156.

Disabilities from continuing a councillor.

(*2*) If any councillor during the term for which he has been elected or appointed—

(*a*) becomes disqualified under sub-section (*1*), or

(*b*) acts as a councillor in any matter

(i) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clauses (i), (ii), (iii), (vi) or (vii) of the proviso to sub-section (*1*), or

(ii) in which he is professionally interested on behalf of a client, principal or other person, or

(*c*) departs beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) by becoming a salaried servant of Government, causes the number of nominated commissioners who are salaried servants of Government to exceed the proportion prescribed in the proviso of sub-section (*1*) of section 10, or

(*e*) not being a president or vice-president or a salaried servant of Government, fails without leave from the Municipality on that behalf to attend [2] [at least one] meeting of the Municipality for a period of four months, provided that there shall have been not less than three such meetings within such period, [3] [or having obtained such leave fails within one fortnight of the expiration thereof either to return or to obtain an extension of leave,]

he shall be disabled from continuing to be a councillor, and his office shall become vacant.

Powers of Government and of the Commis-

(*3*) If any question or dispute arises whether a vacancy has occurred under this section, the orders of the Governor in Council in the case of City Munici-

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[1] The word and figures "section 71" were substituted for "section 73" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

[2] These words were substituted for the word "any" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[3] These words were added by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

palities, and of the Commissioner in other cases, shall be final for the purpose of deciding such question or dispute. sioner to decide whether vacancy has occurred.

16. The Governor in Council, if he thinks fit, on the recommendation of the Municipality, may remove any councillor elected or appointed under this Act, if such councillor has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, or has become incapable of performing his duties as a councillor. Liability to removal from office.

17. Councillors nominated or elected at a general election under this Act shall, save as provided in the next following section, or unless they become in the meantime disabled, or are removed from office under section 16, or section 179, hold office for a term of three years, extensible by order of the Commissioner to a term not exceeding in the aggregate four years, if on any occasion the Commissioner shall think fit, for reasons which shall be notified together with the order in the *Bombay Government Gazette*, so to extend the same. Term of office.

18. In the event of the death, resignation, disqualification, disability or removal of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred. Casual vacancies how to be filled up.

19. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment. Re-eligibility of councillor.

20. The names of all councillors finally elected to any Municipality, as well as the names of the nominated councillors, if any, appointed thereto, shall be published, as soon as conveniently may be, in the *Bombay Government Gazette*. Publication of names of councillors in the *Bombay Government Gazette*.

(4) Municipal Elections.

21. No person who is less than twenty-one years of age shall be entitled to vote at any municipal election. General disqualifications of voters.

22. *(1)* If the validity of any election of a councillor is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held. Determination of validity of elections.

(2) The District Judge or such other Judge as may be appointed by the Governor in Council on this behalf may, after such inquiry as he deems necessary, and subject to the provisions of sub-section *(3)*, pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce Powers of Judge holding enquiry.

the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the [1]Code of Civil Procedure. The decision or order shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one. XIV of 1882.

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

Scrutiny of votes and declaration in other cases.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

What is a corrupt practice.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section,

(i) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person,

or,

(ii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Candidate when deemed to have committed corrupt practice.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Promise of individual profit.

EXPLANATION.—A " promise of individual profit " includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of an error by the officer or officers charged with carrying out the rules made under clause (*c*) of section 11, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

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[1] *See* Act 14 of 1882, as modified up to 1st December, 1899.

(6) If the Judge sets aside an election under clause (*a*) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal district for a term of years not exceeding seven, and the Judge's decision shall be conclusive : provided, however, that such person may by an order which the Governor in Council is hereby empowered to make , if he shall think fit, in that behalf, be at any time relieved from such disqualification. Disqualification of candidate for corrupt practice.

(5) *Presidents and Vice-Presidents.*

23. (1) Every Municipality shall be presided over by a president who shall be selected from among the councillors. Selection of president.

(2) Every president shall be either— President how appointed or when to be elected.

(*a*) appointed by the Governor in Council by name ; or

(*b*) an *ex-officio* president, that is to say, a person executing the functions of any office which the Governor in Council from time to time [1]notifies in this behalf ; or

(*c*) if the Governor in Council so directs, elected by the Municipality.

(3) There shall be a vice-president for every Municipality elected by the councillors from among their number, but if the president is appointed by the Governor in Council or is president *ex-officio*, the result of the election shall, if the Governor in Council by general or special order from time to time so directs, be subject to the approval of the Governor in Council, or of the Commissioner. Election of vice-president, subject in certain cases to confirmation.

(4) When an office has been notified under clause (*b*) of sub-section (2), the person from time to time executing the functions of that office shall be and shall continue to be president, unless and until such notification is altered or rescinded by the Governor in Council. Effect of notification of *ex-officio* president.

(5) Except in the case of a salaried servant of Government who is either an appointed or an *ex-officio* president, every president, who for a period exceeding three months, and every vice-president, who for a period exceeding fifteen days, shall absent himself from the municipal district in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted— Consequences of absence of president or vice-president without leave.

(*a*) by the Governor in Council in the case of a president appointed under clause (*a*) of sub-section (2),

(*b*) by the Municipality, in the case of an elected president or of a vice-president :

[1]For notifications appointing *ex-officio* presidents in certain Municipalities, *see* the addenda to the list on p. ccxcvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

Provided that such leave to a vice-president shall be subject to the approval

(*i*) of the Governor in Council, in the case of a vice-president elected subject to the approval of the Governor in Council, or

(*ii*) of the Commissioner, in the case of a vice-president elected subject to the approval of the Commissioner.

Limit to grant of leave, and arrangements pending absence of vice-president.

(*6*) Leave under the last preceding sub-section shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section a councillor shall be elected, subject to the conditions to which the election of the vice-president so absenting himself was subject, to perform all the duties and exercise all the powers of a vice-president during the period for which such leave is granted.

Liability of president and vice-president to removal and term of office.

(*7*) Every president and every vice-president shall be removable from his office as such president or vice-president by the Governor in Council for misconduct, or neglect of or incapacity to perform his duty, and the term of office of every president, and of every vice-president, shall cease on the expiry of his term of office as councillor.

Vacancies in their office how to be filled up.

(*8*) In the event of the death, resignation or removal from office of a president other than an *ex-officio* president, or of a vice-president, or of his becoming incapable of acting in such office or having ceased to be a councillor under sub-section (*2*) of section 15, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up by the appointment or election, as the case may be, of some other councillor thereto.

Functions of presidents.

24. (*1*) It shall be the duty of the president of a Municipality to—

(*a*) preside, unless prevented by reasonable cause, at all meetings of the Municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 46 to regulate the conduct of business at such meetings ;

(*b*) watch over the financial and executive administration of the Municipality, and, subject to the rules of the Municipality at the time being in force, to perform such executive functions as may be performed by or on behalf of the Municipality over which he presides ;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the Municipality in matters of executive administration and in matters concerning the accounts and records of the Municipality ; and, subject to the rules of the Municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances ;

(*d*) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every

resolution passed at any meeting of the Municipality and any extract from the minutes of the proceedings of the Municipality or of any committee or other document or thing which the Collector from time to time calls for under section 173.

President in what cases to have only a casting vote.

(*2*) When the president of a Municipality is a salaried servant of Government, and is either an *ex-officio* president or has been appointed to be president by the Governor in Council, he shall not vote upon any questions which come before such Municipality for decision unless there is an equality of votes of the other councillors present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of vice-presidents.

25. It shall be the duty of the vice-president of a Municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the Municipality and he shall when so presiding exercise the same authority as is vested in the president under [1][clause (*a*) of] sub-section (*1*) of section 24 ;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him ; and

(*c*) pending the succession, appointment, or election of a president, or during the absence of a president on leave, to exercise the powers and perform the duties of the president

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CHAPTER III.

Conduct of Business.

(*I*) *Municipal meetings.*

Provisions in regard to meetings of a Municipality.

26. The following provisions shall be observed with respect to the meetings of a municipality :—

Ordinary general meetings.

(*1*) Except in periodical Municipalities and in Municipalities at hill stations there shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. In Municipalities at hill stations there shall be held one ordinary general meeting on or about the tenth day of April, and not less than one other ordinary general meeting for the purpose aforesaid,

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[1] These words were inserted by the Bombay District Municipal Amendment Act, 1904 (Bom. Act 4 of 1904), s. 1, *infra*, p. 1724.

in each year. In every periodical Municipality there shall be such and so many ordinary general meetings, as the president thereof shall from time to time determine. It shall be the duty of the president to fix the dates for all ordinary general meetings.

Special general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors, call a special general meeting.

Notice to be given of meetings.

(*3*) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal district. The said notice shall include any motion or proposition which a councillor shall have given written notice not less than ten days previous to the meeting of his intention to bring forward thereat, and, in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting.

Municipal meetings to be held at Municipal office.

(*4*) Every meeting of a municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a municipal office by such municipality.

Every meeting how presided over in the absence of the president and the vice-president.

(*5*) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of sub-section (*1*) of section 24.

Meeting must ordinarily be open to the public.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any enquiry or deliberation pending before the Municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

Number of councillors required to form a quorum.

(*7*) If in a City Municipality less than one-third, and in any other Municipality less than one-half, of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix, and a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

What business to be

(*8*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel

any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been mentioned in the notice convening such meeting, or, in the case of a special general meeting, in the written request for such meeting. The order in which any business that may be transacted or any proposition that may be discussed at any meeting in accordance with this sub-section, shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business, or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

transacted at meetings and order of business how to be settled.

(*9*) In every City Municipality there shall be kept in English, and if the Municipality so resolve, in the vernacular language also, and in every other Municipality there shall be kept in the vernacular language, and if the Municipality so resolve in English, either in lieu of or in addition to the vernacular minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the presiding authority of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district.

Minutes of proceedings to be kept.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority, save as provided in sub-section (*2*) of section 24, having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 46.

All questions to be decided by a majority of votes.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

Adjournments of meetings.

(*12*) No resolution of a Municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors, and passed at a general meeting whereof notice shall have been given, fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting, and the motion or proposition for the modification or cancellation of such resolution.

Modification and cancellation of resolutions.

(*13*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the Municipality by a Government Executive Engineer, or to any educational matter, shall be

Notice of certain business to be given to the Govern-

ment Executive Engineer or Educational Inspector.

transacted at any meeting of a Municipality unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Certain Government officers may attend meetings of Municipalities.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Educational Inspector and Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a Municipality within the district, shall have the right of being present at any meeting of such Municipality, and, with the consent of the Municipality, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such Municipality :

Provided that the said officers shall not, unless they are members of the Municipality, be entitled to vote upon any such question.

Municipalities may require the presence of certain of the said officers at their meetings.

(*b*) If it shall appear to a Municipality that the presence of the Executive Engineer, Educational Inspector, Deputy Sanitary Commissioner or Civil Surgeon of or in the district, is desirable for the purpose aforesaid at any future meeting of such Municipality, it shall be competent to such Municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat ; and the said officer, unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting :

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative, instead of appearing thereat in person.

(*2*) *Committees.*

Managing committees.

27. (*1*) In every Municipality there shall be a committee called the managing committee, consisting of such number of councillors not exceeding nine or less than four, as may have been elected for a period not exceeding one year, in accordance with rules under clause (*a*) of section 46 :

Provided that in any municipal district where there is a Chamber of Commerce, such Chamber shall, if the Governor in Council so directs, be entitled to elect one councillor to be a member of the managing committee.

Powers of managing committees.

(*2*) The managing committee shall, subject

(*i*) to any limitations prescribed by the Municipality specially in this behalf and generally by rules made under clause (*a*) of section 46, and

(*ii*) to the provisions of Chapter XIII,

exercise all the powers of the Municipality :

Provided that no managing committee shall exercise—

(*a*) any powers in connection with any school or educational institution in respect of which a committee is appointed under section 28, or

(*b*) any powers with which any committee appointed under section 29 is vested.

School committees.

28. The Municipality may appoint, subject to such limitations as are prescribed by the rules for the time being in force under section 46 and subject also to the proviso contained in [1][section 58] a committee consisting of such councillors as they think fit, for managing all or any primary or other schools vested in or maintained by the Municipality, or for conducting the business of the Municipality in respect of any educational institutions aided by the Municipality.

Other executive committees.

29. Subject to the limitations prescribed by the rules aforesaid, the Municipality may appoint, for a period not exceeding one year, any such committee or such or so many committees consisting of such councillors as they think fit for any purpose or respectively for any of the purposes, other than those specified in section 28, for which a managing committee may, under section 27, exercise the powers of a Municipality, and may invest each committee so appointed with such of the said powers as may be necessary or expedient for the fulfilment of the purpose for which it is appointed.

Consultative committees.

30. The Municipality may from time to time appoint such or so many other committees consisting of such councillors as they think fit, and may refer to such committees for enquiry and report, or for opinion, such special subjects relating to the purposes of this Act as the Municipality shall think fit, and may at any time discontinue, or alter the constitution of, any such committee. The Municipality may direct that the report of any such committee shall be made to the managing committee, instead of to the Municipality.

When persons other than councillors may serve on committees.

31. Notwithstanding anything contained in this Act, it shall be lawful for the Municipality from time to time, by a resolution supported by not less than one-half of the whole number of councillors to appoint, as members of any committee under section 28, 29, or 30, any persons of either sex, who are not councillors, but who may in the opinion of such Municipality possess special qualifications for serving on such committee ; provided that the number of persons so appointed on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall, save as regards the disqualification on the ground of sex, be applicable so far as may be to such persons.

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1 "Section 58" was substituted for "section 59" by the Bombay District Municipal Act Amendment Act 1903 (Bom. Act, 3 of 1902), s. 2, *infra*, p. 1642.

Casual vacancies—re-eligibility.

32. A vacancy occurring in a managing committee shall, as soon as possible, and a vacancy occurring in any other committee may be filled up by the election of a member from among the general body of councillors subject to the same provisions as those under which the member whose place is to be filled up, was elected. A councillor shall be eligible at any time for re-election as a member of any such committee notwithstanding that he has previously been a member of that committee.

When chairman to be *ex-officio*.

33. (*1*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

When no *ex-officio* chairman, Municipality may appoint chairman.

(*2*) The Municipality may appoint a chairman for every committee of which there is no *ex-officio* chairman.

When *ex-officio* or appointed chairman does not attend meeting, committee may appoint chairman of meeting.

(*3*) Every committee, of which there is an *ex-officio* chairman or a chairman appointed by the Municipality, shall, at each meeting which such chairman does not attend as chairman, appoint from its members a chairman for such meeting.

If there is no chairman *ex-officio* or appointed by the Municipality.

(*4*) Every committee, of which there is no *ex-officio* chairman or chairman appointed by the Municipality, shall appoint from time to time its own chairman from among its own members.

Procedure at meetings.

34. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 26 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a Municipality contained in those provisions, and as if for the word "Municipality", where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 26, there were substituted the word "committee."

Committee may meet when they think proper.

(*2*) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the president of the Municipality or of not less than two members of a committee, call a special meeting of such committee.

Number of members required to form a quorum at committee meetings.

(*3*) No business shall be transacted at any committee meeting unless more than one-half of the members of the committee be present thereat.

Procedure by circular.

35. (*1*) Notwithstanding anything contained in the preceding section the chairman of the committee, whenever it appears to him unnecessary to convene a meeting, may, instead of so doing, circulate a written proposition of his own, or of any other member of the committee, or of any executive officer of the Municipality, for the observations and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 26, shall obtain thereupon the remarks, if any, which any Government officer, not a councillor, whose presence the Municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 26, desires to record.

Decisions how to be taken on propositions circulated, and how to be recorded.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

(*4*) Every decision arrived at by the committee under this section shall be recorded in the minute-book kept under sub-section (*9*) of section 26.

Procedure by circular when applicable to other municipal business.

(*5*) Notwithstanding anything in this Act contained, the Governor in Council may by [1] notification authorize the adoption by any Municipality specified in such notification not being a City Municipality, of the procedure prescribed by this section, for the disposal of any business, whenever the president of such Municipality may deem it unnecessary to convene a general meeting for the purpose of such business.

Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality.

36. (*1*) Every committee shall conform to any instructions that may from time to time be given to them by the Municipality; the Municipality may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorized or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

Order subject to revision and appeal.

(*2*) Every order passed by a managing committee or by a committee appointed under section 28 or 29, other than orders under sub-section (*3*) of section 65 shall be subject to such revision, and open to such appeal, as may be required or allowed in respect thereof by any rules of the Municipality for the time being in force under section 46.

(*3*) *Delegation of powers to individuals.*

Powers, duties and

37. Any powers of duties or executive functions which may be exercised

[1] For notifications under this clause, *see* the addenda to the list on p. cexvi of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

functions may be delegated to officers whose expenses may be paid.

or performed by or on behalf of the Municipality may be delegated, in accordance with rules to be made by the Municipality in this behalf, to the president or to the vice-president, or to the chairman of the managing, school, or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on a Chief Officer in a City Municipality under Chapter XIII or on any committee by or under section 27, 28 or 29 ; and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

(4) Validity of Proceedings.

Acts and proceeding of Municipality and committees not vitiated by disqualifications, etc., of member thereof.

38. (*1*) No disqualification of, or defect in the election or appointment of, any person acting as councillor, or as the president or presiding authority of a general meeting or as chairman of a committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the Municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding were entitled to act.

Proceedings of meetings to be good and valid, until the contrary is proved.

(*2*) Until the contrary is proved, every meeting of the Municipality, or of a committee appointed under this Act, in respect of the proceeding whereof a minute has been made and signed in accordance with this Act shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified ; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect Municipality's proceedings.

(*3*) During any vacancy in a Municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

(5) Joint transactions with other bodies.

Joint committees of two or more municipalities or other local bodies.

39. A Municipality may from time to time—

(*a*) join with any other Municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for an area notified under Chapter XIV, or with more than one such Municipality, board, authority or committee,

(*i*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee ; and

(*ii*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance

of any joint work, and any power which might be exercised by either or any of such bodies ; and

(*iii*) in framing and modifying rules for regulating the proceedings of any such committee relating to the purpose for which the committee is appointed ; and

Agreement for joint levy of octroi.

(*b*) enter, subject to the sanction of the Governor in Council, into an agreement with a Municipality, cantonment authority or committee appointed for an area notified as aforesaid, regarding the levy of octroi duty, whereby the octroi duties respectively leviable by the bodies so contracting, may be levied together instead of separately within the limits of the area comprising the districts subject to the control of the said bodies.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the Governor in Council, or of such officer as he appoints in this behalf, shall be final.

(*6*) *Contracts.*

Competency of Municipality to lease, sell and contract.

40 (*1*) Every Municipality shall be competent, subject to the [1][restriction] contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immoveable property which may, for the purposes of this Act, have become vested in or been acquired by them, and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as they may consider necessary or expedient in order to carry into effect the said provisions and purposes.

Subject in certain cases to sanction of Commissioner.

(*2*) In the case of every lease of immoveable property for a term exceeding seven years, and of every sale or other transfer of any such property, the previous sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case

(*a*) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase, of any immoveable property,

(*b*) of every contract which will involve expenditure not covered by a budget grant,

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the Municipality by a resolution passed at a general meeting is required.

Sanction of Municipality when

(*4*) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to a Municipality, if the

[1] "Restriction" was substituted for "restrictions" by the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1642.

requisite in other cases.

expenditure which the purchase would involve, or the value of the property to be sold as estimated in the municipal accounts, exceeds

(*a*) in the case of a City Municipality, Rs. 500,

(*b*) in the case of any other Municipality, Rs. 250,

the sanction of the Municipality is required.

Sanction by committees and individuals empowered.

(*5*) In the case of every contract not otherwise provided for in the preceding sub-sections of this section the sanction of the managing committee, or of such other committee, or of such individual as under the provisions of this Act or of the rules for the time being in force thereunder, is empowered on this behalf, is required.

Mode of executing contracts.

(*6*) Every contract entered into by or on behalf of a Municipality other than a contract to which sub-section (*5*) applies, shall be in writing, and shall be signed by the president or vice-president and two other councillors, and shall be sealed with the common seal of the Municipality. Every contract to which sub-section (*5*) applies, shall be executed by the chairman of the managing committee, or by the chairman of such other committee, or by such other individual, as is empowered in that behalf, in such manner and form as, according to the law for the time being in force, would bind such chairman or individual if such contract were executed by him on his own behalf.

Invalidity of contracts unless requirements of this section are fulfilled.

(*7*) No contract shall be binding on a Municipality in any case referred to in this section, unless all such requirements as are specified in sub-section (*2*), (*3*), (*4*) or (*5*) in respect of such case are fulfilled, and unless it is executed in accordance with the provisions of sub-section (*6*) applicable thereto.

(*7*) *Compulsory Acquisition of Land.*

Recourse to the Land Acquisition Act, 1894.

41. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the Governor in Council may, after obtaining possession of the same for Government under the [1]Land Acquisition Act, 1894, or other existing law, vest such land or building in the Municipality on their paying the compensation awarded, and on their repaying to Government all cost incurred by Government on account of the acquisition. I of 1894.

(*8*) *Liabilities of councillors, officers, and servants.*

Councillors to be held responsible for misapplied funds

42. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a councillor, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of Government.

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[1] General Acts, Vol. VI, p. 100.

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by or on behalf of the Municipality; the funds at the disposal of each Municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses. Municipal funds ordinarily liable for all costs and expenses incurred.

43. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of a Municipality, or in any employment with, under, by, or on behalf of a Municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such Municipality. Officer or servant of any Municipality not to be interested in any contract with such Municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant. Effect of acquiring such interest.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by, or on behalf of a Municipality as under clauses (ii) and (iv) of the proviso to sub-section (*1*) of section 15, it is permissible for a person to have without his being thereby disqualified for being a councillor. Saving clause.

44. (*a*) Any councillor, who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, under, by, or on behalf of a Municipality of which he is a member, not being a share or interest such as, under section 15, it is permissible for a person to have, without being thereby disqualified for being a councillor, and Penalty for councillor, officer or servant of a Municipality being interested in any contract, etc., with that Municipality.

(*b*) any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract, or except in so far as concerns his own employment as municipal officer or servant, in any employment, with, under, by, or on behalf of a Municipality of which he is an officer or servant, not being a share or interest such as under clauses (ii) and (iv) of the proviso to sub-section (*1*) of section 15 it is permissible for a person to have without being thereby disqualified for being a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

45. (*a*) Every person holding the post of councillor or of an officer or servant of a Municipality, and every person authorized by the Municipality to collect or recover on behalf of the Municipality any tax, who Penalties imposed by the Indian Penal Code.

(i) accepts or obtains, or agrees to accept, or attempts to obtain for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or for bearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or dis-

favour to any person, or for rendering, or attempting to render, any service or dis-service to any person, with the Municipality or with any public servant, or with any municipal committee, officer or servant, as such, or with Government, or

(ii) does any act for which, or omits to do any act for the omission of which, if he were a public servant within the meaning of the [1] Indian Penal Code, he would be liable to punishment, or to an enhanced punishment, under that Code ; and XLV of 1860.

(*b*) every person who

(i) falsely pretends that he holds such post or is so authorized as aforesaid, and in such assumed character, does or attempts to do any act under colour of the character so assumed, or

(ii) does any such act or is guilty of any such omission, to or in relation to, any person holding such post or authorized as aforesaid with such intention or knowledge or in such circumstances as would, if the person holding such post or authorized as aforesaid were a public servant within the meaning of the [1] Indian Penal Code, render the person so doing that act or so omitting as aforesaid, liable to punishment or enhanced punishment under that Code, XLV of 1860.

shall, if no punishment is, in such behalf, provided elsewhere in this Act, be liable to the punishment to which for the like offence he would, if every person holding such post or authorized as aforesaid were a public servant within the meaning of the [1] Indian Penal Code, be liable under that Code.

CHAPTER IV.

Rules and By-Laws.

Municipalities to make rules; regulating the conduct of business; fixing the functions of the president and the establishment;

46. Every Municipality shall, as soon as conveniently may be after the constitution thereof, make and may from time to time alter or rescind rules, but not so as to render them inconsistent with this Act,

(*a*) regulating the conduct of their business and the delegation of any of their powers or duties and, subject to the provisions of section 27, the appointment and constitution of committees ;

(*b*) determining

(i) the executive functions to be performed by the president, vice-president, the chairman of any committee, and, subject to the provisions of Chapter XIII, in City Municipalities by the chief officer, and the delegation of any of their powers or duties to such persons.

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[1] *See* Act 45 of 1860, as modified up to 1st April, 1903.

(*b*)) the staff of officers and servants to be employed by the Municipality and the respective designations, duties, salaries, fees and absentee or other allowances of such officers and servants, and the powers and duties delegated to them under section 37 ;

(*c*) generally for the guidance of their officers and servants in all matters relating to the municipal administration ; — for general guidance of municipal servants ;

(*d*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security ; — fixing the amount of the security to be furnished ;

(*e*) subject to the provisions of section 184, determining the mode and conditions of appointing, punishing or dismissing any * [1] officer or servant, and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any * [1] officer or servant ; — determining mode of appointing, etc., municipal servants ; delegating power to appoint, etc. ;

(*f*) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ; — granting leave to municipal servants ;

(*g*) regulating the period of service of all officers and servants, and determining the conditions under which such officers and servants, or any of them, shall receive pensions, gratuities, or compassionate allowances on retirement, or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities, or compassionate allowances ; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ; — fixing pensions, etc. ;

(*h*) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the Municipality or with the approval of the Municipality by the said officers and servants ; — contributing to provident funds ;

(*i*) prescribing, subject to the provisions of Chapter VII, the taxes to be levied in the municipal district for municipal purposes, the grounds on which exemptions are to be recognized, the conditions on which and the extent to which remissions may be granted, and the system on which refunds are to be allowed and paid, in respect of such taxes, and the limits of the charges or payments to be fixed in lieu of any tax under section 71, and the fees to be charged for licenses or permissions granted under section 70, and the times at which and the mode in which the same shall be levied or recovered or shall be — Prescribing the taxes, etc., to be levied for municipal purposes ;

1 The word " such " was repealed by s. 2 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

payable, and prescribing the fees for notices demanding payments due on account of any tax, and for the execution of warrants of distress, and the rates to be charged for maintaining any livestock distrained, and designating the persons authorized to receive payment of any sums so leviable ;

for writing off amounts due and remitting fees.

(*j*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the managing committee :

Provided that—

Approval required to rules.

(*a*) No rule made, or alteration or rescission of a rule made, under this section shall have effect unless and until it has been approved, in the case of City Municipalities, by the Governor in Council, or in other cases by the Commissioner.

Proviso as to officers transferred from or to the service of Government.

(*b*) If an officer serving or having served under a Municipality has been or is transferred from or to the service of the Government, or is partly employed by the Government and partly by a Municipality, the Municipality shall contribute to his pension and leave allowances to the extent required by the rules in force for the time being, made by the Governor General in Council in this behalf.

Notice required in certain cases of dismissal.

(*c*) The Municipality shall not, unless with the assent of Government, dispense with the services of any such officer transferred from the service of Government to the service of the Municipality or employed partly by Government and partly by the Municipality, or finally dismiss from the service of the Municipality any officer transferred from the service of the Municipality to the service of Government, without giving Government six months' previous notice.

Power to suspend, reduce or abolish any existing tax.

47. Subject to the requirements of clause (*a*) of the proviso to section 46, every Municipality may, except as otherwise provided in clause (*b*) of the proviso to section 74, at any time for any sufficient reason, suspend, reduce or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax under the provisions of clause (*i*) and of the first clause of the proviso to section 46.

Power to make by-laws ;

48. (*1*) Every Municipality may from time to time, with the previous sanction, in the case of City Municipalities, of the Governor in Council, or in other cases of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act,

or markets and slaughter-houses, etc., etc. ;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein ; and for fixing the rents and other charges to be levied, for the use of any of them which belong to the Municipality ;

(*b*) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the Municipality, — for licensing, regulating and inspecting certain businesses;

(i) as a slaughter-house,

(ii) as a market or shop for the sale of animals intended for human food, or of meat, or of fish, or as a market for the sale of fruit or vegetables,

(iii) for any of the purposes mentioned in sub-section (*l*) of section 151, and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

(*c*) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health; — regulating the stalling of cattle, etc.,

(*d*) (i) for the inspection of milch-cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers; — for regulating dairies and cattle-sheds;

(ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter; — milk-stores, etc.

(*e*) for the inspection of weights and measures under section 143; — for inspection of weights and measures.

[1] [(*ee*) for defining the standard weights and measures used within the municipal district;]

(*f*) for the registration of births, deaths and marriages, and the taking of a census within the municipal district and for enforcing the supply of such information as may be necessary to make such registration or census effective; — for registration of births, etc.;

(*g*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead; — regulating the disposal of the dead;

(*h*) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 144 and 145; — for enforcing supply of information as to epidemics;

(*i*) for enforcing the supply of such information by inhabitants of the municipal district as may be necessary to ascertain their respective liabilities to any tax imposed therein; — for enforcing information as to liability to municipal taxation;

[1] This clause was inserted by s. 3 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act, 4 of 1904), *infra*, p. 1724.

octroi by-laws; (*j*) fixing octroi limits and stations ; providing for the exhibition of tables of octroi ; regulating, subject to any general or special orders which the Governor General in Council may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipal district ; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made ;

for protecting water; (*k*) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water whether within or without the limits of the municipal district ; and regulating all matters and things connected with the supply and use of water and the turning on or returning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works and of pipes and fittings in connection therewith, whether the property of the Municipality or not ;

regulating public baths, etc.; (*l*) regulating the use of public bathing and washing places within municipal limits ;

for conservancy; (*m*) regulating sanitation and conservancy and the disposal of carcasses of dead animals ;

regulating structures and buildings; (*n*) regulating the condition on which permission may be given for the temporary occupation, or the erection of temporary structures on, public streets or for projections over public streets, and regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings, for the purpose of securing stability and the prevention of fires, and for purposes of health ;

for providing for streets; (*o*) for preventing the erection of buildings without adequate provisions being made for the laying out and location of streets ;

for ensuring ventilation; (*p*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means of securing a free circulation of air ;

requiring qualified surveyors in City Municipalities; (*q*) in a City Municipality, prescribing the qualifications of surveyors or persons by whom plans required under section 96 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licenses ; and for modifying the provisions of, or revoking such licenses ; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made, except by such persons ;

control of drains; (*r*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water-closets, privies,

latrines, urinals, and drainage or sewerage works of every description, whether the property of the Municipality or not ;

(*s*) determining the information and plans to be required by the Municipality under sections 91 and 96 ; requiring information and plans in certain cases ;

(*t*) prohibiting the transit of any vehicles of such form, construction, weight or size, or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians, along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the road-way, number of lights and assistants, and other general precautions as may be prescribed, either generally in such by-laws, or in special licenses to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws : for controlling unwieldy traffic, and

provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Municipality in conspicuous places at or near both ends of such street or portion of a street ;

(*u*) generally for the regulation of all matters relating to municipal administration. regulating municipal administration.

And every Municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law. Fine may be imposed for infringement of by-laws.

(*2*) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified. Publication of drafts of proposed by-laws.

(*3*) When any by-law made by a Municipality is submitted to the Governor in Council or Commissioner for sanction, a copy of the notice published as aforesaid and of every objection or suggestion so made, shall be submitted before for the information of the Governor in Council or Commissioner along with the said by-law. Objections and suggestions to be submitted to Government.

49. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in the vernacular language of the district, and in City Municipalities in English as well as in the vernacular, shall be kept on sale at cost price. Rules and by-laws to be printed and sold.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property.

50. (*1*) Every Municipality may acquire and hold property both moveable and immoveable, whether within or without the limits of the Municipal District.

Property vested in the Municipality.

(*2*) All property of the nature hereinafter in this section specified, and not being specially reserved by the Governor in Council, shall be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, not being specially reserved by the Governor in Council, which may become vested in the Municipality, be under their direction, management, and control, and shall be held and applied by them as trustees, subject to the provisions and for the purposes of this Act; that is to say—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts, and public buildings of every description.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduit, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters, and water-courses in, alongside, or under any street, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools, or elsewhere.

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to them by the Secretary of State for India in Council, or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

Municipal fund.

51. All moneys received by or on behalf of the Municipality by virtue of this or any other Act; all taxes, tolls, and other imposts, fines, fees, penalties paid to or levied by them under this Act; all proceeds of land or other property sold by the Municipality, and all rents accruing from their land or property; as also all interest, profits and other moneys accruing by gifts or

transfers from the Secretary of State for India in Council or private individuals or otherwise, shall constitute the Municipal Fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section :

Provided that—

Provision as to special trusts.

(*a*) nothing in this section, or in the last preceding section, shall in any way affect any obligations accepted by or imposed upon any Municipality by any declarations of trust executed by or on behalf of such Municipality, or by any scheme settled under the [1]Charitable Endowments Act, 1890, for the administration of any trust :

VI of 1890.

When special trusts may be created.

(*b*) a Municipality may, subject to the conditions that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on them by sections 54, 55 or by or under sections 61, or 72, or Chapter XII, credit to a separate heading in the municipal accounts any portion of the municipal fund received by them specially for, or devoted by them to, the purposes of schools or dispensaries or of waterworks or fire-brigades, or other such purposes as the Commissioner in this behalf approves, and, provided that there shall be credited to such special heading such sums only as expressly relate to the object for which the fund designated by such heading was created, the Municipality may apply the sums so credited exclusively to the respective objects to which they are so credited.

Municipal property and funds how to be applied.

52. All property vested in the Municipality under this Act, and all funds received by them in accordance with the provisions of this Act, and all sums accruing to them under the provisions of any law for the time being in force, shall be applied, subject to the provisions and for the purposes of this Act, within the limits of the municipal district :

Provided always that it shall be lawful for the Municipality, with the sanction of the Governor in Council or any officer duly authorized by him in this behalf,—

(*a*) to incur expenditure beyond the said limits,—

(*i*) in the acquisition of land, or

(*ii*) in the construction, maintenance or repair of works,

for the purpose of obtaining a supply of water required for the inhabitants of the municipal district, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits, or for drainage works, or for

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1 General Acts, Vol. V, p. 376.

any other purpose calculated to promote the health, safety, or convenience of the inhabitants of the said district; or

(*b*) to make a contribution towards expenditure incurred by any other Municipality or in any area subject to the authority of a local board or cantonment authority, or Sanitary Board or Committee, or of a Committee appointed under section 188 for an area notified under section 187, or incurred out of any public funds for measures affecting the health, instruction or convenience of the public and calculated to benefit the residents within the limits of the contributing Municipality; or

(*c*) to create scholarships tenable outside the limits of the municipal district:

Provided further, that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for a Municipality, when with such sanction as aforesaid they have constructed works beyond the limits of the said district for the supply of water or for drainage as aforesaid,

(*a*) to supply or extend to, or for the benefit of, any person or buildings or lands in any place[1] * * * *, whether such place is or is not within the limits of the said district, any quantity of water not required for the purposes of this Act within the said district, or the advantages afforded by the system of such drainage-works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages, as shall be settled by agreement between the Municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes, or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

53. (*1*) It shall be lawful for the Municipality to deposit at interest with the Bank of Bombay, or such other bank as may hereafter be appointed to conduct the business of His Majesty's Treasury at Bombay, or with the sanction of the Governor in Council in any bank in the Presidency of Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in public securities in the name of the Municipality, and from time to time to dispose of such securities as may be necessary.

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[1] The words "throughout the line of country in which such works are situate, or contiguous to such line of country" were repealed by s. 1 of the Bombay District Municipal Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

(2) All surplus funds over and above what may be required for current expenses shall, unless deposited or invested as provided for in sub-section (1), be deposited in the local Government Treasury or such other place of security as may be sanctioned in the rules of the said Municipality. Surplus not so deposited or invested how to be dealt with.

CHAPTER VI.

Obligatory and Discretional Functions of Municipalities.

54. It shall be the duty of every Municipality to make reasonable provision, Duties of Municipalities.

(1) for the following matters within the municipal district under their authority, namely:

(*a*) lighting public streets, places and buildings;

(*b*) watering public streets and places;

(*c*) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not; removing noxious vegetation; and abating all public nuisances;

(*d*) extinguishing fires, and protecting life and property when fires occur;

(*e*) regulating or abating offensive or dangerous trades or practices;

(*f*) removing obstructions and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or belong to His Majesty;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams, and the like;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost;

(*k*) naming streets and numbering houses;

(*l*) registering births and deaths;

(*m*) public vaccination;

(*n*) suitable accommodation for any calves, cows or buffaloes required within the municipal district for the supply of animal lymph;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief;

(*p*) establishing and maintaining primary schools;

(*q*) printing such annual reports on the municipal administration of the district as the Governor in Council by general or special orders requires the Municipality to submit;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the Municipality for the purposes of this Act or for the protection of any municipal property and providing such accommodation as may be required by Government under section 77 of the [1] Bombay District Police Act, 1890, Bom. IV of 1890.

and subject to such reasonable provisions as aforesaid,

(2) for the following special matters, namely :

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak of, or to suppress and prevent the recurrence of the disease;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal district.

Provision for lunatics and lepers.

55. Every Municipality shall also, out of the municipal property and fund, make payments at such rates as the Governor in Council from time to time by general or special orders prescribes, for the maintenance and treatment either in the municipal district or at any asylum, hospital or house, whether within or without such district, which the Governor in Council declares by notification to be suitable for such purpose,

(*a*) of lunatics, not being persons for whose confinement and order under Chapter XXXIV of the [2]Code of Criminal Procedure, 1898, is in force, and V of 1898.

(*b*) of [3]lepers,

habitually resident within, or under any enactment for the time being in force removed from, such district:

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[1] Vol. III of this Code, p. 1337.

[2] *See* Act 5 of 1898, as modified up to 1st April, 1903.

[3] For the law in force in British India generally dealing with the control of lepers, *see* Act 3 of 1898, General Acts, Vol. VI.

Provided that in any case in which under any law for the time being in force the charges of the lodging, maintenance, clothing, medicine and care of any such lunatic or leper are recoverable, or have been recovered, from any estate applicable to his maintenance or from any person legally bound to maintain him, the Municipality may apply to any Magistrate empowered under such law to take action for the recovery of such charges, and such Magistrates shall thereupon take such action, if he has not already taken it, and shall, out of any sums recovered under such law, cause to be paid to the credit of the Municipality the amount of any payments made by the Municipality in respect of that person under this section.

Discretionary powers of expenditure of Municipalities.

56. Municipalities may, at their discretion, provide out of the said property and fund, either wholly or partly, for

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, including the land requisite for the construction of buildings or curtilages thereof, to abut on such streets;

(*b*) constructing, establishing or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharmshalas, rest-houses and other public buildings;

(*c*) furthering educational objects other than those set forth in sub-clause (*p*) of [1][section 54];

(*d*) planting and maintaining roadside and other trees;

(*e*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*f*) making a survey;

(*g*) the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or Honorary Magistrate, or any portion of any such charges;

(*h*) arrangements for the destruction or the detention and preservation of such dogs within the municipal district as may be dealt with under section 49 of the [2] Bombay District Police Act, 1890;

Bom. IV of 1890.

(*i*) securing or assisting to secure suitable places for the carrying on of the offensive trades mentioned in sub-section (*l*) of section 151;

(*j*) supplying, constructing and maintaining, in accordance with a general system approved by the Sanitary Board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the Municipality;

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[1] "Section" was substituted for "clause" by s. 2 of the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] Volume III of this Code, p. 1337.

(*k*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*l*) any other measure not specified in section 54, likely to promote the public safety, health, convenience or education ; and

(*m*) with the previous concurrence, in the case of City Municipalities, of the Commissioner, or in other cases of the Collector, any public reception, ceremony, entertainment or exhibition within the municipal district.

Arrangements purporting to be binding permanently or for a term of years.

57. When a Municipality have entered into any arrangement, or made any promise, purporting to bind themselves or their successors, for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Municipality or their successors, with the sanction in the case of a City Municipality, of the Governor in Council, and in the case of any other Municipality of the Commissioner, to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that they shall have given at least twelve months' notice of their intention so to do to the manager or managers of such institution.

Management of public institutions maintained by Municipalities to vest in them.

58. The management, control and administration of every public institution exclusively maintained out of municipal property and funds shall vest in the Municipality by which it is maintained :

Provided that the extent of the independent authority of any Municipality in respect of public education, and their relations with the Government Educational Department shall from time to time be prescribed by the Governor in Council.

CHAPTER VII.

MUNICIPAL TAXATION.

(*1*) *Imposition of taxes.*

Taxes which may be imposed.

59. Subject to any general or special orders which the Governor General in Council may make in this behalf, any Municipality

(*a*) after observing the preliminary procedure required by [1][section 60], and

(*b*) with the sanction of the Governor in Council in the case of City Municipalities, and in other cases of the Commissioner, and subject to such modifications or conditions as under section 61 the Governor in Council or the Commissioner, respectively, in according such sanction, deems fit,

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1 Substituted for "section 61" by s. 2 of the Bombay District Municipal Act Amendment Act, 1902 (Bom. Act 3 of 1902), s. 2, *infra*, p. 1942.

may impose, for the purposes of this Act, any of the following taxes: that is to say,

(i) a rate on buildings or lands, or both, situate within the municipal district;

(ii) a tax on all or any vehicles, boats, or animals used for riding, draught or burden, kept for use within the said district;

(iii) a toll on vehicles, and animals used as aforesaid, entering the said district, but not liable to taxation under the clause last preceding;

(iv) an octroi on animals or goods, or both, brought within the octroi limits for consumption or use therein;

(v) a tax on dogs kept within the said district;

(vi) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(vii) a general sanitary cess for the construction or maintenance, or both construction and maintenance, of public latrines, and for the removal and disposal of refuse;

(viii) a water-rate or water-rates, for water supplied by the Municipality, which may be imposed in the form of a rate assessed on buildings and lands, or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of case or of any individual case;

(ix) a lighting tax;

(x) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district;

(xi) any other tax to the nature and object of which the approval of the Governor in Council shall have been obtained prior to the selection contemplated in sub-clause (i) of clause (*a*) of section 60;

Provided that

(*a*) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall, without the express consent of Government, be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops or the conveyance of Government stores or of any other

Government property, or for the passage of Military or Police Officers on duty, or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the Municipality have

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the district or part of the district to be charged, with such cess, one month's notice of the intention of the Municipality to perform such cleansing and to levy such cess;

(*c*) the Municipality in lieu of imposing separately any two or more of the taxes described in clauses (i), (vii), (viii), and (ix) * * * [1] may impose a consolidated tax assessed as a rate on buildings or lands, or both, situate within the municipal district.

Procedure of Municipality preliminary to imposing tax.

60. Every Municipality before imposing a tax shall observe the following preliminary procedure:

(*a*) they shall, by resolution passed at a general meeting,

(i) select for the purpose one or other of the taxes specified in section 59;

(ii) prepare rules for the purposes of clause (*i*) of section 46 prescribing the tax selected;

and shall by such resolution and in such rules specify

(iii) the class or classes of persons or of property, or of both, which the Municipality desire to make liable, and any exemptions which they desire to make;

(iv) the amount for which, or the rate at which, it is desired to make such classes liable;

(v) all other matters which the Governor in Council may so require to be specified.

(*b*) When such resolution has been passed, the Municipality shall publish the form of rules so prepared with a notice in the form of Schedule A prefixed thereto.

(*c*) Any inhabitant of the municipal district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the class of persons or property to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the Municipality, and the Municipality shall take all such objections into consideration,

[1] The words and figure " of sub-section (1) " were repealed by s. 4 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

or shall authorise a committee to consider the same and report thereon, and, unless they decide to abandon or to modify the proposed tax in accordance with such objections, shall submit the same with their opinion thereon, together with the notice and rules aforesaid, in the case of a City Municipality, to the Governor in Council, and in the case of any other Municipality to the Commissioner.

Power to sanction modify and impose conditions.

61. The Governor in Council, or the Commissioner, as the case may be, may either refuse to sanction the rules submitted, or may return them to the Municipality for further consideration, or if no objection, or no objection which is in his opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(*a*) without modification, or

(*b*) subject

(i) to such modifications not involving an increase of the amount to be imposed, or

(ii) to such conditions as to the application within the municipal district to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax,

as he deems fit.

Publication of sanctioned rules with notice.

62. All rules sanctioned under section 61 with all modifications subject to which the sanction is given, shall be published by the Municipality in the district for which they are prescribed, together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the Municipality in accordance with all conditions, if any, subject to which under section 61 the sanction was given :

Provided that

(*a*) a tax leviable by the year

(i) shall not come into force except on one of the following dates, *viz.*, the first day of April—the first day of July—the first day of October—the first day of January—in [1] [any year], and

(ii) if it comes into force on any day other than the first of April, it shall be leviable by the quarter, till the first day of April then next ensuing ;

(*b*) on or before the day on which a notice is issued under this section, the Municipality shall publish such further detailed rules as may be

[1] "Any year" was substituted for "the official year on which such notice is published" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

required, and as may have been approved by the Governor in Council or by the Commissioner, as the case may be, under the first clause of the proviso to section 46, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable ;

(c) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

(2) Assessment of and liability to rates.

Preparation of an assessment-list.

63. (1) When a rate on buildings or lands or both is imposed, the Municipality shall cause an assessment-list of all buildings, or lands, or buildings and lands in the municipal district to be prepared, containing

(a) the name of the street or division in which the property is situated ;

(b) the designation of the property, either by name or by number, sufficient for identification ;

(c) the names of the owner and occupier, if known ;

(d) the annual letting value or other valuation on which the property is assessed ; and

(e) the amount of the tax assessed thereon.

Power to inspect.

(2) For the purpose of making such assessment on property as aforesaid, the Municipality may from time to time appoint any person or persons, whether councillors or not, and whether remunerated or not ; and any person or persons so appointed may for such purpose make an inspection of any such property.

Returns to be furnished.

(3) On the requisition of the Municipality or of such person, the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribe with his signature—

(a) as to the name and place of abode of the owner or occupier or of both ;

(b) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Publication of notice of assessment list.

64. When the assessment-list has been completed the Municipality shall give public notice thereof, and of the place where the list or a copy thereof may be inspected : and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising

65. (1) The Municipality shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when they will proceed to revise the valuation and assessment : and in all cases in which any property is for the time assessed or the assessment is

increased, they shall also give notice thereof to the owner or occupier of the property, if known. assessment list.

(2) All objections to the valuation and assessment shall be made to the Municipality before the time fixed in the notice, by application in writing, stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Municipality for the purpose. Objections how to be made.

(3) The managing committee, or any committee or committees to which the Municipality delegate the powers and functions of the managing committee in this behalf, or any officer of Government to whom, with the permission of the Commissioner, the Municipality delegate, and they are hereby empowered so to delegate, the powers and functions of the managing committee in this behalf shall, after allowing the applicant an opportunity of being heard in person or by agent, Hearing of objections.

(a) investigate and dispose of the objections,

(b) cause the result thereof to be noted in the book kept under sub-section (2), and

(c) cause any amendment necessary in accordance with such result to be made in the assessment-list.

(4) When all objections made under this section have been disposed of, and all amendments required by sub-section (3) have been made in the assessment-list, the said list shall be authenticated by the signatures of the Chairman and at least one other member of the managing committee or, if the Municipality have delegated the powers and functions of the managing committee in this behalf to any other committee or to an officer of Government, by the signatures of not less than two members of such committee or of the officer aforesaid, and the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein. Authentication of list.

(5) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property specified therein, or to the agents of such persons, and a notice that it is so open shall be forthwith published. Custody and inspection of list.

(6) Subject— Authenticated list how far conclusive.

(a) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

(b) to the result of any appeal made under section 86,

the entries in the list so authenticated and deposited shall be accepted as conclusive evidence,

(i) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

Amendment of assessment-list.

66. (*1*) The Municipality may at any time alter the said list by inserting the name of any person whose name ought to have been inserted, or by inserting any property which ought to have been inserted, or by altering the valuation of or assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, after giving notice to any person interested in the alteration, of a time, not less than one month from the date of service of such notice, at which the alteration is to be made.

Objections how dealt with.

(*2*) Every objection made by any persons interested in any such alteration, before the time fixed in the notice, and in the manner provided by sub-section (*2*) of the last preceding section, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(*3*) Every alteration made under this section shall, subject to the result of an appeal under section 86, have the same effect as if it had been made on the earliest day in the current official year in which the circumstances justifying the alteration existed.

New assessment-list need not be prepared every year.

67. (*1*) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(*2*) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them on a building or other lease from the Secretary of State for India in Council or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely :

(*a*) if the property is let, from the lessor ;

(*b*) if the property is sublet, from the superior lessor ;

(*c*) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually

payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

Provided further, that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum. Remedy of occupier in such case.

69. (*1*) When any building or land which is assessed to a rate payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year, or throughout the period in respect of which any such instalment is payable, the Municipality shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be : Remission of tax in case of vacancies : when obligatory ;

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Municipality, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(*2*) When any such building or land as aforesaid when discretional.

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the Municipality may remit or refund such portion, if any, of the rate or instalment as they may think equitable.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him. Burden of proof on claimant.

(*4*) For the purposes of this section a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not. Explanatory clause.

(*3*) *Power to charge Fees.*

70. (*1*) When any license is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Municipality, the Municipality may charge a fee for such license or permission. Municipality may charge fees for certain licenses.

(*2*) The Municipality may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 48 for the use of any such places mentioned in that sub-section, as belong to the Municipality. Market and other fees.

(*4*) *Special Provisions relating to certain Taxes.*

Fixed charges and agreements or payment in lieu of taxes for water supplied.

71. (*1*) The Municipality may, instead of imposing a water-rate, or in individual cases, of levying a rate imposed in respect of the supply of water belonging to the Municipality to, or for use in connection with, any private lands or buildings,

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 46, charges for such supply according to the quantity used, as ascertained by measurement,

(*b*) arrange with any person, on his application, to supply on payment, periodical or otherwise, water belonging to the Municipality in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or otherwise, on such terms and subject to such conditions as they shall fix by agreement with such person :

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supplies, and all future repairs, extensions and alterations of such works shall be under the control of the Municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the Municipality, be defrayed by the persons liable in respect of such supplies, and

(*b*) all such supplies of water shall be, and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof, and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 48.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) When the Municipality have made provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, they may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate, and the dates and other conditions for periodical payments thereof, which shall be determined either,

(i) in accordance with the rules for the time being in force under section 46 or

(ii) by written agreement with the person who would have been otherwise liable for the cess, provided that, in fixing the amount, proper regard be had to the probable cost to the Municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) When the Municipality have imposed a tax on vehicles or animals kept for use within the municipal district, they may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire, for the payment

of a lump sum, for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by the Municipality as due under sub-section (*1*) as a charge fixed by agreement or otherwise on account of water-supply, or as expenses to be defrayed such as are referred to in that sub-section, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter :

Provided that nothing in this section shall affect the right or powers of the Municipality to contract with any person to supply for use beyond the limits of the municipal district, at such rates and on such conditions as the Municipality may think fit, any quantity of water belonging to the Municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

72. If any tax imposed under this Act is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Commissioner may require the Municipality of such district to assign and pay to the district local board, or to the táluka local board having authority in the táluka in which such municipal district is situate, or partly to the said district local board and partly to the said táluka local board, such portion of the total collections on account of such tax as he shall deem fit ; and the portion so assigned shall be expended by the said board or boards, within the areas respectively, under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

Power of Government to suspend levy of objectionable taxes.

73. If it shall at any time appear to the Governor in Council, on complaint made or otherwise, that any tax, leviable by a Municipality, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interests of the general public, he may require the said Municipality, within such period as he shall fix in this behalf, to take measures for removing any objection which appears to him to exist to the said tax, and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the Governor in Council, he may, by notification in the *Bombay Government Gazette*, suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

The Governor in Council may at any time, by a like notification, rescind any such suspension.

Power of Government to require Municipalities to

74. Whenever it appears to the Governor in Council that the balance of the municipal fund of any Municipality is insufficient for meeting the expenditure incurred under section 175 or for the performance of any duties in respect of which they shall have been declared under section 178 to have committed default, the Governor in Council may by notification require the Municipality

impose taxes.

to impose, within the municipal district, any such tax specified in the notification as may be imposed under section 59 if no such tax is at the time imposed therein, or to enhance any existing tax in such manner or to such extent as the Governor in Council considers fit, and the Municipality shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this chapter, as if a resolution of the Municipality had been passed for the purpose under section 60 :

Provided that

(*a*) the Governor in Council shall take into consideration any objection which the Municipality or any inhabitant of the municipal district may make against the imposition or enhancement of such tax,

(*b*) it shall not be lawful for the Municipality to abandon or modify or to abolish such tax, when imposed, and

(*c*) the Governor in Council may at any time cancel or modify any requisition made by him under this [1][section], and the levy of the tax or the enhancement except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition of octroi.

75. Every Municipality when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*1*) of section 48, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

[2]76. (*1*) Every person bringing into, or receiving from beyond, the octroi limits of a municipal district, any article on which octroi is payable shall, when required by an officer authorized in this behalf by the Municipality, and so far as may be necessary for ascertaining the amount of tax chargeable,

(*a*) permit that officer to inspect, examine and weigh and otherwise deal with the article ; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.

Power to search where octroi is leviable.

(*2*) If any person bringing into, or receiving from beyond, the octroi limits of a municipal district in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Municipality in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the

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[1] "Section" was substituted for "sub-section" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] Ss. 76, 77, 79, 80 and Schedule D have been extended to the Cantonment of Ahmednagar subject to certain restrictions and modifications, *see* Gazette of India, 1905, Pt. I, p. 19.

Municipality as the Governor in Council appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

177. (*1*) Every officer demanding octroi by the authority of the Municipality shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

(*2*) If goods passing into a municipal district are liable to the payment of octroi, then every person who, with the intention to defraud the Municipality, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said district, any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the value of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

78. Every Municipality imposing any toll under this Act, shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments, and it shall be the duty of every person authorized to demand payment of a toll, to show such table, on the request of any person on whom such demand is made.

Power to seize vehicle or animal on non-payment of octroi or toll.

179. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a Municipality, the person appointed to collect such octroi or toll may seize any article on which the octroi is chargeable or any vehicle or animal on which the toll is chargeable, or any part of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal, or article seized, a list of the property together with a written notice in the Form of Schedule D that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the municipal office the amount of all expenses incurred, and of the octroi or toll payable, the Municipality shall forthwith release the property seized.

Sale.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

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1 *See* second footnote on preceding page.

Surplus how dealt with.

(*5*) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Municipality in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made shall be the property of the Municipality.

Power to keep account-current with firm or public body in lieu of levying octroi on introduction of goods.

[1]80. The Municipality, if they think fit, instead of requiring payment of octroi, due from any mercantile firm or public body, to be made at the time when the articles in respect of which it is leviable are introduced within the octroi limits of the municipal district, may at any time direct that an account-current shall be kept on behalf of the Municipality of the octroi so due from any such firm or body as the Municipality specify in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the Municipality or any committee or officer authorized by them in this behalf, shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter.

Collection of octroi by one public body on behalf of others.

81. When any agreement such as is referred to in clause (*b*) of section 39 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary, for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of this Act relating to octroi shall apply in the same way, as if the limits so established were wholly comprised within the area subject to the control of the body by which they are so established, and the collections made and the costs thereby incurred shall, subject to the provisions of section 39, be divided between the funds respectively subject to the control of the bodies so entering into the agreement, in such proportions as shall have been determined in the said agreement.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

82. (*1*) When any amount,

(*a*) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or

[1] *See* second footnote on p. 1574, *supra*.

(*b*) which, not being leviable under sub-section (*1*) of section 79, or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal district,

shall have become due, the Municipality shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof, a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of—

(i) the liability incurred in default of payment, and of

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid into the municipal office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Municipality may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule B, or to the like effect.

In what cases warrant may issue.

83. (*1*) If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the Municipality, or [1] [of] such officer as the Municipality by rule may appoint in this behalf, or in a City Municipality [1] [of] the Chief Officer, if any, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 86 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the Municipality in the form of Schedule C or to the like effect, by distress and sale of the moveable property of the defaulter.

Warrant by whom to be signed.

(*2*) Every warrant issued under this section shall be signed by the president of the Municipality causing the same to be issued, or in the case of a City Municipality by the chairman of the managing committee, or by an officer to whom the Municipality have delegated their powers under section 37 or by the Chief Officer, if any.

Power of entry under

(*3*) It shall be lawful for any municipal officer to whom a warrant issued under sub-section (*2*) is addressed, if the warrant contains a special order

[1] The word "of" was substituted for "to" in both places where it occurs in s. 83 (*1*) (*b*) by s. 5 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

special order.

authorizing him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance. Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention, and has given such women an opportunity to remove.

Warrant how to be executed.

(*4*) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property of the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :

(*a*) The following property shall not be distrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artizans,

(iii) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood.

(*b*) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate in value to the amount recoverable under the warrant, and if any articles have been distrained which in the opinion of a person authorized by or under sub-section (*2*) to sign a warrant, should not have been so distrained, they shall forthwith be returned.

(*c*) The officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure, a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

Sale of goods distrained.

84. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or chairman or officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was when seized, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the

warrant, sold by public auction under the orders of the Municipality, and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental cost as aforesaid.

Surplus, if any, how dealt with.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund; notice of such credit being given at the same time to the person from whose possession the property was taken, but if the same be claimed by written application to the Municipality within one year from the date of the [1] [notice], a refund thereof shall be made to such person. Any sum not claimed within one year from the [1] [date] of such notice shall be the property of the Municipality.

Fees and costs chargeable.

85. Fees for—

(*a*) every notice issued under sub-section (*3*) of section 82,

(*b*) every distress made [2] [under sub-section (*4*) of section 83], and

(*c*) the costs of maintaining any live-stock seized under [3] [the said sub-section],

shall be chargeable at the rates respectively specified in such behalf in the rules of the Municipality, and shall be included in the costs of recovery to be levied under [4] [section 83].

Appeals to Magistrates.

86. Appeals against any notice of demand issued under sub-section (*3*) of section 82, may be made to any Magistrate or Bench of Magistrates by whom, under the directions of the Governor in Council, or of the District Magistrate, such class of cases is to be tried.

But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim of the Municipality is disputed, has been made to the Municipality as follows, that is to say:

(i) in the case of a rate on buildings or lands, within the time fixed in the notice given under section 65 or 66 of the assessment or alteration thereof, according to which the bill is prepared,

(ii) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 82 within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

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[1] The words "notice" and "date" respectively were substituted for the words "sale" in each place by s. 6 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

[2] These words were inserted by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[3] "The said sub-section" was substituted for "this section" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[4] "Section 83" was substituted for "section 84" by s. 2 of the Bombay District Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

Liability of land, buildings, etc., for rates.

87. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both, mentioned in section 68, shall, subject to prior payment of land revenue, if any, due to [1] [His Majesty] thereupon, be a first charge upon the building or land, in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax or taxes :

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

Suspension of power to recover by distress and sale.

88. The Governor in Council may at any time by notification suspend the operation of sections 83 and 84 in any municipal district, in which there is not a City Municipality, and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (*2*) of section 161 for the recovery of such fines as are therein referred to, and not otherwise.

Receipts to be given for all payments.

89. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving the same.

CHAPTER IX.

Municipal Powers and Offences.

(*1*) *Powers in respect of Streets.*

Power regarding streets, etc.

90. (*1*) It shall be lawful for the Municipality to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same, and to widen, open, enlarge, or otherwise improve any such streets, and to turn, divert, discontinue, or stop up any such streets, and, subject to the provisions of sub-section (*2*) of section 40, to sell any such land, theretofore used or acquired by the Municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act.

(*2*) In laying out or making, or in turning, diverting, widening, opening, enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and, subject to the provision contained in sub-section (*2*) of section

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[1] "His Majesty" was substituted for "the Secretary of State for India in Council" by s. 2 of the Bombay Municipal Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

40, may sell and dispose of the same in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

Power to require repair of streets.

(*3*) When the Municipality consider that in any street, not being a public street, or in any part of such street, within the municipal district, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Municipality may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

and to declare such streets public.

(*4*) After such work has been carried out by such owners or, as provided in section 156, by the Municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the Municipality, to be a public street.

Power to declare any street a public street subject to objections by the owners.

(*5*) A Municipality may, at any time, by notice fixed up in any street or part of a street not maintainable by the Municipality, give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the Municipality may, by notice in writing put up in such street, or such part, declare the same to be a public street.

New streets.

91. (*1*) Every person intending to lay out or make any new street shall give notice in writing thereof to the Municipality, and shall furnish plans and sections, showing the intended level, means of drainage, direction, and width of such street, if required by the Municipality to do so, and the level, means of drainage, direction, and width of every such street shall be fixed or approved by the Municipality.

Power of Municipality to pass orders.

(*2*) Before passing orders under sub-section (*1*), the Municipality may either issue,

(*a*) a provisional order directing that, for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) a demand for further particulars.

(*3*) If

Right to proceed in certain cases.

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the Municipality have neither

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(ii) under sub-section (2), issued any provisional order or demand for further particulars, or if

(b) the Municipality, having issued such demand for, and having received, in accordance with the demand and with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice, and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty. (4) Whoever lays out, makes or builds upon any such street, either without giving the notice required by sub-section (1), or, except in accordance with the provisions of sub-section (3), without awaiting, or otherwise than in accordance with, the instructions issued by the Municipality, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees, and the Municipality may cause any street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(2) Powers to regulate Building, etc.

Setting back projecting buildings. 92. (1) If any part of a building projects beyond the regular line of a public street either as existing or as determined upon for the future, or beyond the front of the building on either side thereof, the Municipality may,—

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(b) if the projecting part is not such external structure as aforesaid, then, whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed, or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Municipality.

Acquisition of land which is (2) If any land, not vested in the Municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other such external structure, the

Municipality after giving the owner of the land not less than fifteen clear days' written notice of their intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same : and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Municipality. within the regular line of a street and open or occupied only by platforms, etc.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under either of the said sub-sections, provided that no such compensation shall be payable in cases to which section 119 applies. Compensation payable by the Municipality.

93. The Municipality may, upon such terms as they think fit, allow any building to be set forward for improving the line of any public street in which such building is situated. Setting forward to regular line of street.

94. (*1*) The external roofs and walls of buildings erected or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials, except with the written consent of the Municipality, which may be given either specially in individual cases, or generally in respect of any area specified therein. Roofs and external walls of buildings not to be made of inflammable materials.

(*2*) The Municipality may at any time, by written notice, require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Municipality. Power to require removal of roof and wall if inflammable.

(*3*) Whoever without such consent as is required by sub-section (*1*) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with a fine which may extend to twenty-five rupees, and with a further fine which may extend to ten rupees for every day on which the offence is continued, after the date of the first conviction. Penalty.

95. No building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Municipality, or into some stream or river, or into the sea, or some cesspool, or other suitable place which may be approved of by the Municipality. Level of buildings.

96. (*1*) Before beginning to erect any building, or to alter externally or add to any existing building, or to reconstruct any projecting portion of a building in respect of which the Municipality is empowered by section 92 to enforce Notice of new buildings.

a removal or set-back, the person intending so to build, alter, or add shall give to the Municipality notice thereof in writing, and shall furnish to them, at the same time if required by a by-law or by a special order to do so,

(*a*) the sanad, if any, in force relating to the site of such proposed building, issued under section 10 of [1] Bombay Act IV of 1868 or received under section 133 of the [2] Bombay Land-Revenue Code, 1879, or other enactment relating to the survey of lands in towns and cities, and Bom. V of 1879.

(*b*) a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Municipality, and all information they may require regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets.

Power of Municipality to pass orders.

(*2*) The Municipality may issue such orders not inconsistent with this Act as they think proper with reference to the work proposed in such notice and may either give permission to erect or alter or add to the building according to the plan and information furnished, or may impose in writing such conditions as to level, drainage, sanitation, materials, or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation, or with reference to the location of the building in relation to any street existing or projected, as they think proper, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.

Or to suspend the work or to require further particulars.

(*3*) Before issuing any orders under sub-section (*2*) the Municipality may, within one month from the receipt of such notice, either issue,

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(*4*) A building proposed in a notice given under sub-section (*1*) may be proceeded with in such manner, as may have been specified in such notice, as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, that is to say :—

(*a*) in case the Municipality, within one month from the receipt of the notice given under sub-section (*1*), have neither

(*b*) passed orders under sub-section (*2*) and served notice thereof in respect of the intended work ;

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1 Rep. by Bom. Act 5 of 1879.
2 Vol. II of this Code, p. 631.

nor

(*ii*) issued under sub-section (*3*) any provisional order or any demand for further particulars;

(*b*) in case the Municipality having issued such demand for and having received in accordance with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars:

Provided that no person, who becomes entitled under this sub-section to proceed with any intended work of which notice is required by sub-section (*1*), shall commence such work after the expiry of the period of one year from the date on which he first becomes entitled so to proceed therewith.

(*5*) Whoever begins or makes any building or alteration or addition without giving the notice required by sub-section (*1*), or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (*4*), without awaiting, or in any manner contrary to, such legal orders of the Municipality as may be issued under this section, or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees: and the Municipality may

(*a*) direct that the building, alteration, or addition be stopped,

and

(*b*) by written notice, require such building, alteration or addition to be altered or demolished, as they may deem necessary.

(*6*) The Municipality or any officer deputed by them may at any time inspect the erection of any building without giving notice of their or his intention to do so, and [1]* * at any time during the erection of a building or the execution of any such work as aforesaid, or at any time not later than one month after being informed in writing by the person responsible for giving a notice under sub-section (*1*) that the erection of the building, or the execution of any such work as aforesaid, has been completed, may by written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work, or, if the person who has erected or executed such building or work is not at the time of notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or by-law to be amended, or to do anything which by any such provision or by-law he may be required to do but which has been omitted.

[1] The words "they may" were repealed by s. 7 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

EXPLANATION.—The expression " to erect a building " throughout this chapter includes

(*a*) any material alteration, enlargement or reconstruction of any building,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings or other structures to any building,

and a building so altered, enlarged, reconstructed, converted, or added to, is, throughout this chapter, included under the expression " a new building."

Regulation of huts.

97. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this act comes into operation, without giving previous notice to the Municipality ; and the Municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Municipality may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary. If any hut or shed or range or block be built without giving such notice to the Municipality or otherwise than as required by the Municipality, the Municipality may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Municipality may think fit.

Improvement of huts.

98. (*1*) Whenever the Municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason

(*a*) of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Municipality for that purpose, to take down and remove such hut or shed, or to execute such operations as the Municipality may deem necessary for the avoidance of such risk.

(*2*) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the Municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

(*3*) If such huts or sheds be pulled down by the Municipality, the Municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner be unknown or the title disputed, shall be held in deposit by the Municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same :

Provided always that in case any huts or sheds, existing at the time when the land on which they are situate first became part of a municipal district, should be pulled down under this section by order of the Municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 160.

(*3*) *Powers connected with Drainage, etc.*

Municipal control over drains, etc.

99. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools, within the municipal district shall be under the survey and control of the Municipality.

(*2*) All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the Municipality or other persons to whom they severally belong, with proper traps, or other coverings or means of ventilation, and the Municipality may by written notice call upon the owner of any such covered sewers, drains, or cesspools to make provision accordingly.

Powers for making drains.

100. (*1*) In order to carry out any drainage scheme it shall be lawful for a Municipality to carry any drain, sewer, conduit, tunnel, culvert, pipe or water-course through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal district.

(*2*) The Municipality, or any officer appointed by them for such purpose, may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the Municipality has been already constructed, or may repair or alter any drain vested in the Municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to any person who sustains damage by the exercise of such power.

Sufficient drainage of houses.

101. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Municipality, the Municipality may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as they think necessary for the drainage of such building or land into

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner.

New buildings not to be erected without drains.

(*2*) It shall not be lawful newly to erect any building, or to re-build any building, or to occupy any building newly erected or re-built, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level, and with such fall, as shall appear to the Municipality to be necessary for the effectual drainage of such building ;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Municipality to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(*3*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage, situated at a distance not exceeding fifty feet from such building ; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the Municipality direct.

Power of owners and occupiers of buildings or lands to drain into municipal drains.

102. The owner or occupier of any building or land within the municipal district shall be entitled to cause his drains to empty into the sewers of the Municipality, provided that he first obtains the written permission of the Municipality, and that he complies with such conditions as the Municipality prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the Municipality and drains which are so vested.

How right to carry drain

103. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain, to be constructed

through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Municipality. through land or into drain belonging to other persons may be obtained.

(2) The Municipality thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in their opinion insufficient, by an order in writing authorise the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to them to be adequate and equitable. Such right how and on what conditions to be authorised by Municipality.

(3) Every such order shall be a complete authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset, and, subject to all the provisions of this Act, to do all such work as may be necessary— Written order of municipal authority for execution of necessary work.

(*a*) for the construction or connection of the drain, as may be authorised by the said order,

(*b*) for renewing, repairing or altering the same, as may be necessary from time to time, or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

104. In executing any work under section 103, as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall Work how to be carried out.

(*a*) cause the work to be executed with the least practicable delay ;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

105. If the owner of any land into, through or under which a drain has been carried under section 103 whilst such land was unbuilt upon, shall at any sub- Rights of owner of land

through which drain is carried in regard to subsequent building thereon.

sequent time desire to erect a building thereon, the Municipality shall, if they sanction the erection of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as they may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of privies, etc.

106. (*1*) In case the Municipality shall be of opinion that any privy or cesspool, or additional privies, or cesspools, should be provided in or on any building or land, or in any municipal district in which, with the approval of the Sanitary Board, a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be provided therein or thereon, the Municipality may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets as the Municipality may deem proper.

(*2*) The Municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the Municipality may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Municipality may by written notice require the owner or occupier of any land upon which there is a privy, to have such privy shut out, by a sufficient roof, and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy door or trap door which opens on to any street, and which they deem to be a nuisance.

Cost of altering, repairing and keeping in proper order privies, etc.

107. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within municipal district shall, unless constructed at the cost of the Municipality, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the Municipality may by written notice require such owner to alter, repair, and put the same in good order in such manner as they think fit.

(*2*) The Municipality may by written notice demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Municipality is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

108. When any building or land within the municipal district has a drain communicating with any cesspool or sewer, the Municipality, if they consider that such drain, though it may be sufficient for the drainage of such building or land, and though it may be otherwise unobjectionable, is not adapted to the general sewerage of the district, may close such drain, and such cesspool

or sewer, whether it is or is not on land vested in the Municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Municipality may do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped.

109. The Municipality may by written notice require that any such sewer, drain, privy, water closet, house-gullies or cesspool on any land within municipal limits, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws of the Municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as they may deem fit, by the person by whom it was so constructed, rebuilt or stopped, and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

110. (*1*) Whoever, without the written consent of the Municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Municipality, shall be punished with fine which may extend to twenty-five rupees, and the Municipality may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as they may think fit.

(*2*) No building shall be newly erected or rebuilt over any sewer, drain, culvert or gutter vested in the Municipality, without the written consent of the Municipality, and the Municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

Inspection of drains, etc.

111. (*1*) The Municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, water-closet, house-gully, or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the Municipality.

(*2*) The expense of such inspection, and of causing the ground to be closed and made good as before, shall be borne by the Municipality, unless the sewer, drain, privy, water-closet, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment, or of any by-laws of the Municipality in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-

closet, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Municipality may execute certain works under this sub-chapter without allowing option to persons concerned of executing the same.

112. (*1*) The Municipality may, if they think fit, cause any work of the nature to which this sub-chapter applies, to be executed by municipal or other agency under their own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Expenses in such cases by whom to be paid.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the Municipality shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(*3*) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the Municipality, be deemed to be municipal property, unless the Municipality shall have transferred their interest therein to the owner of such buildings or lands.

(*4*) *Powers regarding external structures, etc.*

Permission necessary for certain projections.

113. (*1*) The Municipality may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies, or rooms, to project from any upper storey thereof, at such height from the surface of the street as the Municipality may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall, and may prescribe the extent to which, and the conditions under which, roofs, eaves, weather-boards, [1][shop-boards] and the like may be allowed to project over such streets.

(*2*) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to twenty-five rupees, and if any such owner or occupier fails to remove any such projection as aforesaid in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

Removal of projections.

(*3*) The Municipality may by written notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction

[1] These words were inserted by s. 8 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

which, whether erected before or after the site of such building became part of a municipal district, shall have been erected or placed against or in front of such building, and which

(*a*) overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or which

(*b*) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street, so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided always that the Municipality shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district, or after such date with the written permission of the Municipality, make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 160.

Troughs and pipes for rain water.

114. The Municipality may by written notice require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as they may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of brackets, etc., to houses.

115. The Municipality may erect or fix to the outside of any building, brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1889, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the [2]Indian Telegraph Act, 1885, as amended by subsequent enactments, for telegraph wires or telephonic wires, for the conduct of electricity for locomotive purposes, or such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any others in the neighbourhood.

XIII of 1889.

XIII of 1885.

Naming streets and numbering houses.

116. (*1*) The Municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner, or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the Municipality, and any owner or occupier of any building who shall not at his own expense

[1] *See* now the Indian Electricity Act, 1903 (3 of 1903), General Acts, Vol. VII.

[2] General Acts, Vol. VI.

keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing building, etc.

117. Any person

(*a*) who without the consent of the owner or occupier, affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or

(*b*) who without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees, etc.

118. The Municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street, that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger, or obstruct, or which they deem likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

(*5*) *Powers for promotion of Public Health, Safety and Convenience.*

Ruinous or dangerous buildings.

119. (*1*) If any building, or anything affixed thereon, be deemed by the Municipality to be in a ruinous state or likely to fall, or in any other way dangerous to any inhabitant of such building or of any neighbouring building, or to any occupier thereof, or to passengers, the Municipality shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers ; all expenses incurred by the Municipality under this sub-section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Action to be taken on default by owner or occupier.

(*2*) The Municipality shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Municipality shall cause all or so much of such building or thing, as they shall think necessary, to be taken down, repaired, or otherwise secured :

Proviso if danger is not imminent.

Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality instead of themselves causing a hoard or fence to be put up, to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner

or occupier failing to put up within two days from the service of such notice a hoard or fence which the Municipality consider sufficient in the circumstances of the case, the Municipality shall at once cause such hoard or fence to be put up and thereafter proceed as provided in sub-sections (*1*) and (*2*).

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

120. (*1*) The Municipality may at any time by written notice require that the owner of, or any person who has the control over, any well, stream, channel, tank or other source of water-supply, shall, whether it is private property or not,

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Municipality prescribe, protect any such source of water-supply from pollution by surface drainage, or

(*d*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the Municipality approve, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Municipality dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or shall

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply which not being a stream in its natural flow, is proved to the satisfaction of the Municipality to be unfit for drinking ; or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Municipality be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the Municipality consider sufficient to prevent such use, such source of water-supply as aforesaid ;

(*g*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Municipality consider is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time required by or under the provisions of sub-section (*1*), the Municipality may, and if in their opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred therein by the Municipality shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same

manner as an amount claimed on account of any tax recoverable under Chapter VIII :

Provided that in the case of any well or private steam or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Municipality or necessarily incurred by such owner or person having such control, may, if the Municipality so direct, be paid from the municipal fund.

Displacing pavements, etc.

121. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags, or other materials, of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Municipality, or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(*2*) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in the fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property of any public street, shall fail to replace or restore the same to the satisfaction of the Municipality after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in restoring the street, and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstructions and encroachments upon public streets and open spaces.

122. (*1*) Whoever in any place after it has become a municipal district, shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step, or any projecting structure or thing, or other encroachment or obstruction, in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer, or aqueduct in such street, shall be punished with fine which may extend to twenty-five rupees.

(*2*) The Municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the Municipality or not, provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not private property, shall be punished with fine which may

extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Municipality from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

[1][(*5*) Nothing contained in this section shall apply to any projection duly authorized under sub-section (*1*) of section 113, or in any case where permission has been given under sub-section (*4*).]

Hoards to be set up during repairs, etc.

123. (*1*) Every person intending to build or take down any building, or to alter or repair the outward part of any building, in such a position or in such circumstances as that the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall before beginning such work,

(*a*) first obtain a license in writing from the Municipality so to do, and

(*b*) cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Municipality.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Fencing and lighting during repairs, etc.

124. (*1*) The Municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains, or posts to be fixed across or in any of the streets to prevent the passage of carriages, carts, or other vehicles, or of cattle or horses, while such works are carried on, as to them shall seem proper ; and the Municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be lighted with a sufficient light and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the Municipality, shall be punished with fine which may extend to fifty rupees.

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[1] This sub-section was added by s. 9 of the Bombay District Municipal Act (Amendment) Act, 1904 (Bom. Act 4 of 1904), *infra* p. 1724.

Timber not to be deposited or hole made in a street without permission.

125. (*1*) No person shall, without the written permission of the Municipality or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street or erect or deposit thereon, any timber, stone, brick, earth or other material that has been, or is intended to be, used for building; and such permission shall be terminable at the discretion of the Municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, to the satisfaction of the Municipality, and shall cause the same to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Dangerous quarrying.

126. [1] If in the opinion of the Municipality the working of any quarry, or the removal of stone, earth or other material from the soil in any place is dangerous to persons residing in or having legal access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Municipality may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal, not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Municipality shall direct for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of Government, or any person acting with the permission or under the authority of Government or of any officer of Government acting as such, the Municipality shall not take such action unless and until the Collector has consented to their so doing:

Provided further that the Municipality shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if in any case referred to in this [2] [section] it appears to them to be necessary in order to prevent imminent danger, and any expense incurred by the Municipality in taking action under this section shall be paid by such owner or other person as aforesaid, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*6*) *Powers for the prevention of nuisances.*

Depositing

127. (*1*) Whoever deposits, or causes or suffers any member of his family

[1] The figure 1 was deleted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] "Section" was substituted for "sub-section" by s. 2 of Bom. Act 3 of 1902, *infra*, p. 1642.

or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthenware or other rubbish, or any other thing that is or may be a nuisance, in any street or in any arch under a street, or in any drain beside a street or on any open space or on any quay, jetty or landing place, or on any part of the sea-shore or the bank of a tidal river, whether above or below highwater mark, or on the bank of any river, water-course or nullah, except at such places, in such manner, and at such hours as shall be fixed by the Municipality, and whoever commits, or suffers any member of his family or household to commit, nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees. dust, etc.

(2) Whoever throws or puts, or causes or suffers any member of his household to throw or put, any of the matter above described, or, except with the permission of the Municipality, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert, tunnel or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

128. Whoever causes or allows the water of any sink or sewer, or any other liquid or other matter which is, or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Municipality, or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees. Discharging sewage, etc.

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from, and to cleanse and purify, such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees, for every day on which such offence is continued, after the date of the first conviction. Non-removal of filth, etc.

130. (1) The Municipality may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter. Removal of night-soil.

(2) Whoever,

(*a*) when the Municipality have fixed such hours, and given public notice

thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Municipality or not,

(*i*) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Municipality by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

131. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Municipality a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Municipality to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued, after the date of the first conviction.

(*2*) Should the state of the building be such as in the judgment of the Municipality to render it unfit for human habitation, they may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

Deserted and offensive buildings.

(*3*) If any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Municipality, if they consider such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal district who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed, and in the event of non-compliance with such requirement, the Municipality, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by them in so doing, and all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Power to enter and inspect, etc., buildings.

132. It shall be lawful for the president, vice-president, or any councillor or officer authorized by the Municipality in this behalf, at any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part thereof to be forthwith internally and externally limewashed or otherwise cleansed for sanitary reasons.

Bathing places.

133. (*1*) The Municipality may set apart sufficient public places, or any part of the sea-shore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal district.

(*2*) Copies of all orders passed and notices issued by the Municipality and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

Fouling water.

134. (*a*) Whoever, in disobedience of any order of the Municipality under section 133, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the Municipality, or washes, or causes to be washed, therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought thereinto anything that is, or may be-

come, a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and

(*b*) whoever without permission of the Municipality, steeps in any tank, stream, or ditch within, or on the boundary of, the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance,

shall be punished with fine which may extend to fifty rupees.

Abatement of nuisances.

135. When any pool, ditch, tank, pond, well, hole, or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the Municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the Municipality may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

Using offensive manure, etc.

136. Whoever, except with the written permission of the Municipality, and in the way, if any, enjoined in such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

137. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall be punished with fine which may extend to twenty-five rupees.

Consumption of smoke.

138. (*1*) It shall be lawful for the Municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the municipal district, whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings or, being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees, and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(7) Regulation of Markets, Sale of Food, etc.

Licensing markets and slaughter-houses.

139. (*1*) It shall be lawful for the Municipality to direct that no place shall be used as a market for the sale of animals, meat, fish, fruit or vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the Municipality, or such other markets or slaughter-houses as may have been licensed in writing by the Municipality, who may, at their discretion, from time to time grant, suspend, withhold or withdraw such licenses, either generally or in individual instances.

(*2*) No person shall, in any municipal district in which by-laws are in force prescribing the conditions on and subject to which, and the circumstances in which, licenses for shops for the sale of such commodities may be granted, refused, suspended or withdrawn, use without a license from the Municipality granted in accordance with by-laws made under clause (*b*) of sub-section (*1*) of section 48 any place as a shop for the sale of animals, meat, or fish, intended for human food, except in a municipal or licensed market.

(*3*) Whoever contrary to such direction or without the license required as aforesaid, or otherwise than in accordance with the conditions on or subject to which such license was granted, sells or exposes for sale any such animals or commodities, or uses or permits the use of a place as a shop for the sale thereof, or uses any place as a slaughter-house, shall be punished with fine which may extend to twenty-five rupees.

(*4*) Upon a conviction being obtained in respect of any place which has, without, or during the suspension or after the withdrawal of, a license, been used or permitted to be used as a shop for such sale as aforesaid, the Magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps, to prevent such place being so used, and every person, who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(*5*) Nothing contained in this section shall apply to the use of any hotel or eating house for the sale of food served for consumption on the premises.

Opening, closing and letting of markets and slaughter-houses.

140. (*1*) The Municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

(2) Any person who, without the permission or license of the Municipality, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Slaughter-houses, etc., beyond municipal limits.

141. It shall be lawful for the Municipality, with the sanction of the Commissioner or, if authorised by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals, beyond the limits of the municipal district, and all provisions of this Act and of by-laws in force thereunder relating to such places within municipal limits, shall have full force therein, as if such places were within the municipal limits.

Search for and inspection of unwholesome articles.

142. (*1*) The president, vice-president or any councillor or officer authorised by the Municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting, and may inspect, any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in, or brought to, any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may, under the orders of the president, vice-president or chairman of the managing committee or of a committee appointed under section 29 to exercise all or any of the powers vested in the Municipality under this sub-chapter, if in his opinion it is diseased, unsound, unwholesome or unfit for food, drink and medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian [1] Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink or medicine.

XLV of 1860.

[1] *See* the reprint of the Act as modified up to 1st April, 1903.

Adulterated articles for food or drink.

(2) In every municipal district in which this sub-section is, by virtue of a notification [1] [issued] under the [2] Bombay Prevention of Adulteration Act, 1899, [3] [as if the sub-section were part of section 5 of that Act,] for the time being in force, and applicable to food of all kinds or of any specified kind,

Bom. II of 1899.

if any article to which this sub-section is applicable as aforesaid, is intended for food or drink, and is in any place mentioned in sub-section (*1*), the president, vice-president or officer authorised as aforesaid, in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink, and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall if in such case the provisions of section 273 of the [4] Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV of 1860.

EXPLANATION.—If such article having been exposed or stored in, or brought to any place mentioned in sub-section (*1*) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this sub-section, an article which is not what it is represented to be.

Protection to persons acting in good faith.

Provided that when any article of food referred to in this sub-section appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(*a*) that such substance has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article of food, the extraneous substance has unavoidably become intermixed therewith, or

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[1] The word "issued" was inserted by s. 2 of the Bombay District Municipal Act (190 Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] *Supra*, p. 1502.

[3] These words were inserted by s. 2 of Bom. Act 3 of 1902.

[4] *See* the reprint of the Act as modified up to 1st April, 1903.

(*c*) that, by a label distinctly and legibly written or printed on or with the said article of food or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

Application for summons to be refused if not applied for within reasonable time.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

False weights and measures.

143. The president, vice-president, or any councillor, or officer authorised by the Municipality in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food, and inspect the weights and measures in use, and if the person in charge be found in possession of any false or defective weights or measures, or of weights and measures by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees.

(*8*) *Prevention of dangerous diseases.*

Powers which may at any time be conferred.

144. (*1*) The Governor in Council may at any time [1] confer by notification on any Municipality designated therein, all or any of the powers specified in sub-section (*2*), and such Municipality shall, subject to all such limitations, restrictions and conditions, if any, as the Governor in Council in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal district every power so conferred on them, for such period as may be specified in this behalf in any such notification, or if no period is so specified, then until such power is withdrawn.

(*2*) The powers, all or any of which may be conferred under the preceding sub-section, are :—

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have

[1] For a list of notifications conferring these powers on Municipalities, *see* the addenda attached to p. 1 of Vol. II of the Bombay Local Rules and Orders, Ed. 1898.

reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the Municipality in that behalf;

(*b*) power to direct or authorise the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable, any place in which any dangerous disease is reported or suspected to exist, and the taking of measures to prevent the spread of the disease beyond such place;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place, which may appear to the Municipality, on the advice of a medical officer, likely to engender or cause the spread of any dangerous disease;

(*d*) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorised by the Municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment;

(*e*) power to require by written notice the owner or occupier of any building, or part of a building, or a person owning or in charge of any article therein to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the Municipality in the circumstances of the case consider reasonable, at the expense of the Municipality;

(*f*) power to provide the means, and to prescribe places, for disinfecting or washing bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof;

(*g*) power—

(*i*) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and

(*iii*) to direct that any conveyances that may at any time be used for conveying any such person shall be immediately disinfected ;

(*h*) power to prohibit—

(*i*) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshála, theatre, market or other place of public resort : or

(*ii*) any person in charge of any person so suffering from so exposing such sufferer ;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows, or has reason to believe, has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshála or serai, in which a person has, or in which there is reason to believe that a person has, been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the Municipality or of such officer as the Municipality appoint in this behalf ;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from dangerous disease.

(*3*) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penalties for disobedience to an order passed in exercise of such powers.

(*4*) Any person who in a municipal district disobeys any order which is for the time being in force therein, and which has been passed by the Municipality in exercise of any power conferred on such Municipality under this section, or obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order, shall be punished with fine which may extend to two hundred rupees.

Duties of Municipality on threatened

145. (*1*) In the event of the municipal district or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the Municipality shall take all such measures as they deem necessary for

the purpose of preventing, meeting, mitigating or suppressing such outbreak. or actual outbreak of dangerous disease.

(2) In such event as aforesaid the Governor in Council may, by special notification, declaring that such municipal district is threatened or visited with an outbreak of a dangerous disease, confer on the Municipality all or any of the additional powers specified in the following sub-section, and such Municipality shall, subject to such limitations, restrictions and conditions, if any, as the Governor in Council in the same or in any subsequent notification may prescribe, exercise every such power so conferred on them until the same is withdrawn by means of a like notification.

(3) The powers all or any of which may be conferred under the preceding sub-section are—

(*a*) power to order, subject to the conditions,

(*i*) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling, or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein ;

(*b*) power to direct the examination by a medical officer of persons, and if necessary, the disinfection of the clothing, bedding or other suspicious articles belonging to persons, either arriving from places outside the municipal district, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such time and places as may be prescribed, for a period not exceeding ten days ;

(*c*) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the District or other medical officer appointed by the Governor in Council on this behalf, such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(4) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section ; but except as allowed by the Municipality, no claim for com-

pensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penal clauses.

(5) If in any municipal district in which such declaration under sub-section (2) as aforesaid is for the time being in force, any person—

(a) knowingly disobeys any order which for the time being is in force in such district and which has been passed by the Municipality in exercise of any power conferred on them under section 144 or undert hisse ction, or

(b) obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders.

146. (1) The Governor in Council may at any time

(a) withdraw any power conferred under section 144 or under section 145;

(b) cancel or modify any limitation, restriction or condition prescribed in respect of anys uch power; or

(c) cancel any order passed by a Municipality in exercise of any such power.

(2) Every order passed by a Municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal district.

Duties of Municipality in respect of diseases among cattle, sheep or goats.

147. If in any municipal district any infectious disease amongst cattle, sheep or goats breaks out, or if the introduction of any such disease appears to be likely, the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

148. (1) Whenever the Municipality consider the interior of a building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Municipality may cause proceedings to be taken before a Magistrate of the First Class for the purpose of obtaining an order to prevent such overcrowding.

Procedure of Magistrate.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease, or risk of disease, and after such further enquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this [1][section] be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

Special powers which may be conferred by the Governor in Council in respect of over-crowded areas notified by the Governor in Council.

149. (*1*) If the Governor in Council is of opinion that risk of disease has arisen or is likely to arise, either to any occupier in, or to any inhabitants in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings, or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together ; or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected ; or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid ; or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings ;

he may by notification confer on the Municipality, to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if he deem necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the Municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the Governor in Council.

(*2*) The powers all or any of which may be conferred on a Municipality under sub-section (*1*) are as follows :—

(*a*) power, when any building or block already existing or in course

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[1] "Section" was substituted for "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

of erection, by reason of any defect specified in sub-section (*1*) has given or is in the opinion of the Municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block, and addressed as the Municipality deem fit either to the owners thereof, or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall, within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block, or execute such works or take such action in connection therewith as the Municipality deem necessary to prevent all such risk of disease ;

(*b*) power by municipal or other agency, to pull down or remove the said building or block, or to execute such works or take such action, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(*c*) power, subject to a right of appeal to the Commissioner, whose decision shall be conclusive, to prohibit by written notice addressed to the owner and occupier of any such site or space, and by general notice published in the manner provided in sub-section (*3*) of section 154, the erection of any building or of any building exceeding such dimensions as may be specified,

(*i*) on the site of any building which has, in whole or in part, in exercise of the power specified in clause (*a*), been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not, and whether it is enclosed or not,

if the Municipality consider that in order to prevent such risk as aforesaid, such site or space should not be built upon, and either

(*a*) to acquire such site or space, or

(*b*) to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the Municipality shall, unless it has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 160.

(*4*) In making any rule under sub-section (*1*) the Governor in Council may prescribe a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of the powers conferred upon them under this section or in pursuance of such rules.

Closing of places for disposal of the dead.

150. (*1*) If the municipality be of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, they may submit their opinion with the reasons therefor to the Governor in Council, and the Governor in Council thereupon, after such further enquiry if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified on that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(*9*) *Nuisances from certain trades and occupations.*

Regulation of certain trades.

151. (*1*) If it be shown to the satisfaction of the municipality that any building or place used or intended by any person to be used,

(*a*) for boiling or storing offal, blood, bones or rags ;
(*b*) for salting, curing, and storing fish ;
(*c*) for storing hides, horns or skins ;
(*d*) for tanning ;
(*e*) for the manufacture of leather or leather goods ;
(*f*) for dyeing ;
(*g*) for melting tallow or sulphur ;
(*h*) for washing or drying wool or hair ;
(*i*) as a brick, pottery or lime kiln ;
(*j*) for soap-making ;
(*k*) for oil-boiling ;
(*l*) as a manufactory of sago ;
(*m*) as a distillery ;
(*n*) for storing hay, straw, fodder, wood, coal, or other combustible material ;
(*o*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

is, or is likely by reason of such use and of its situation to become, a nuisance to the neighbourhood, or is so used or is so situated as to be likely to be dangerous to life, health or property, the municipality may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of, or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such place, or

(*ii*) to use it in such manner, or after such structural alterations, as the municipality in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

Liability to penalty after notice.

(*2*) Whoever, after notice has been given under sub-section (*1*), uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

Penalty for unlicensed places in district in which by-laws under section 48 (*b*) (*iii*) are in force.

(*4*) Whoever uses without a license, or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (*1*) in any municipal district in which by-laws are for the time being in force prescribing the conditions on [1] [or] subject to which, the circumstances in which, and the areas [1] [or] localities in respect of which, licenses for such use may be granted, refused, suspended [1] [or] withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Loitering or importuning for purposes of prostitution.

152. Whoever in any street or public place within the limits of a municipal district loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section, except on the complaint of the person importuned, or of a Police officer not below the rank of an officer in charge of a Police Station and specially authorized in this behalf by the District Magistrate or by the municipality.

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1 "Or" in these three places in sub-section (4) was substituted for "and" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

Brothels.

[1] 153. In any municipal district—

(*a*) any part of which is within three miles of a Cantonment, or

(*b*) to which on the application of the municipality the Governor in Council may by Notification have declared this section to [1]apply,

any Magistrate of the First Class, on receiving information that a house within the limits of such district is used as a brothel, may summon the owner or occupier of such house, and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it, and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal district residing in the vicinity of the house to which the complaint refers.

(*10*) *Service of Notices, and Penalties on non-compliance therewith.*

Service of notices, etc., addressed to individuals.

154. (*1*) The service of every notice, and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorised by the municipality in his behalf,

(*a*) by giving or tendering this notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal limits, or by giving or tendering the notice or bill to some adult male member or servant of his family ; or

(*c*) if such person does not reside within the municipal limits, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post, under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on "owners or occupiers" of

(*2*) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service

[1] For notification applying s. 153 to the Satara Suburban Municipal District, *see* Bombay Government Gazette, 1903. Pt. I A. p. 89.

buildings and lands.

thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them; or

(*b*) if no such owner or occupier be found, then by giving or tendering the [1] [notice] to some male adult member or servant of the family of any such owner or occupier as aforesaid; or

(*c*) if none of the means aforesaid be available, then by causing the [1] [notice] to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(*3*) Every notice which this Act requires or empowers a municipality to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period, and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in by-laws in this behalf prescribes.

Defective form not to invalidate notice.

(*4*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*5*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*6*) In the event of non-compliance with the terms of the notice it shall be lawful for the municipality to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 160.

Punishment for disobedience to orders and notices not punishable under any other section.

155. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by a municipality under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by the municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction:

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magis-

[1] "Notice" was substituted for "bill" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

trate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Municipality in default of owner or occupier may execute works and recover expenses.

156. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to them by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit;

Provided that—

Agreement for construction of drainage and water-connections.

(*a*) whenever any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to their powers under sub-section (*1*) or section 101 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement, or in default in the manner described in sub-sections (*2*) and (*3*):

Provided also that—

Improvement expenses.

(*b*) when an order has been passed under sub-section (*3*) of section 90, sub-section (*1*) of section 91, [1] [sub-section (*2*)] or (*6*) of section 96 or under section 99, 101, 106 or 107 or when permission has been given under section 102, or when an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if they think fit, declare any expenses incurred as aforesaid by the municipality, to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality decide, including interest at the rate of six per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land, the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter,

[1] "Sub-section (2)" was substituted for "sub-section (1)" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier, and the owner respecting the payment of the expense of any such works as aforesaid.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

157. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

158. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building, or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be punished with a fine which may extend to fifty rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he

might otherwise have become liable by reason of his default in executing such works.

Entry for purposes of the Act.

159. It shall be lawful for the president or vice-president, or any councillor or officer authorised by the municipality for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make as for the purpose of executing any work authorised by this Act to be executed by them:

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

160. (*1*) If a dispute arises with respect to any compensation, damages, costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchâyat of five persons, of whom two shall be appointed by the municipality, two by the party [1] [to or from whom such compensation, damages, costs or expenses may be payable or recoverable] and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party, or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation, damages, costs or expenses, such members as may be necessary to constitute the Panchâyat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchâyat not giving a decision within one month from the date of the selection of the sir-panch, or of the appointment by the District Court of such members as may be necessary to constitute the panchâyat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [2]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court:

I of 1894.

Provided that—

(*a*) no application to the Collector for a reference shall be necessary, and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

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[1] These words were substituted for "to receive compensation" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] General Acts, Vol. VI.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality may prosecute.

161. (*1*) The municipality may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund:

Provided that no prosecution for an offence under this Act shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate.

(*2*) Any prosecution under this Act or under any by-laws thereunder may, save as therein otherwise provided, be instituted before any Magistrate and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Distress lawful though defective in form.

162. No distress levied by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property, how made good.

163. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

164. In lieu of proceeding by distress and sale, or in case of failure to realise by so proceeding the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages awarded under this Act, it shall be lawful for the municipality to sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any other way caused, or may appear likely to cause, any injury to any property, rights or privileges of the municipality.

Power to compromise.

165. (*1*) The municipality may compound or compromise in respect of any suit instituted by or against them, or, in respect of any claim or demand arising out of any contract entered into by them under this Act, for such sum of money or other compensation as they shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(*2*) The municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers, and servants under this Act.

Assistance for the recovery of rent on land.

166. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in [1] [or otherwise held by] such municipality, the municipality shall be deemed to be superior holders, and every such person an inferior holder, of such land, within the meaning of sections 86 and 87 of the [2] Bombay Land-revenue Code, 1879, and the municipality as superior holders shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections superior holders are entitled for the recovery of rent or land-revenue payable to them by inferior holders.

Bom. V of 1879.

Limitation of suits, etc.

167. No suit shall be commenced against any municipality, or against any officer or servant of a municipality, or any person acting under the orders of a municipality, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such municipality, officer, servant or person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of Police officers.

168. (*1*) Any Police officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the Police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

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[1] These words were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

[2] Vol. II of this Code, p. 631.

(2) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts.

Budget Estimates.

169. (1) Every municipality shall have prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall, if possible, be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(2) The municipality shall thereupon decide upon the appropriations, and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

(3) The municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

Audit of accounts.

170. (1) The municipal accounts shall from time to time, and once in every year at the least, be audited by such agency as may be prescribed in the rules of the municipality, or if the Governor in Council so direct, by a Government auditor.

(2) The auditor, or auditors, shall, for the purposes of their office, have access to all the accounts and other records of the municipality.

(3) The municipality shall pay from the municipal fund such charges for the audit as may be agreed upon, or if the auditor is a Government auditor, then such charges as may be prescribed by the Governor in Council.

Transmission of accounts to Government.

171. The municipality shall, as soon as the annual accounts have been finally passed by them, transmit to the Governor in Council, or any officer duly authorised by him, in this behalf, a copy thereof, or an account in such form as the Governor in Council may prescribe, and shall furnish such details

and vouchers relating to the same as the Governor in Council or such officer may from time to time direct.

Publication of accounts.

172. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall be opened to public inspection, and shall be published in the vernacular language of the district in such manner as the municipality may prescribe in this behalf.

CHAPTER XII.

CONTROL.

Collector's powers of inspection and supervision.

173. (*1*) The Collector shall have power—

(*a*) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any municipality, or any work in progress under them or under their direction;

(*b*) to call for any extract from the proceedings of any municipality or of any committee or for any book, or document in the possession of or under the control of a municipality, and any return, statement, account, or report which he may think fit to require such municipality to furnish;

(*c*) to require a municipality to take into their consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply to him within a reasonable time stating their reasons for not desisting from doing, or for not doing, such thing.

(*2*) All or any of the powers given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a táluka in so far as concerns any municipality other than a City municipality in such táluka.

Collector's power of suspending execution of orders, etc., of Municipalities.

174. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, or [1] * is unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

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[1] The word "which" was repealed by s. 10 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

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[1] The word "which" was repealed by s. 10 of the Bombay District Municipal Act Amendment Act, 1904 (Bom. Act 4 of 1904), *infra*, p. 1724.

Collector's order to be reported to Commissioner, who may confirm or modify it.

(*2*) When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Every case under this section to be reported to Government for their final orders.

(*3*) The Commissioner shall forthwith submit to the Governor in Council a report of every case occurring under this section, and the Governor in Council may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

Extraordinary powers of Collector in case of emergency.

175. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a municipality are empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

(*2*) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(*3*) The provisions of sub-sections (*2*) and (*3*) of section 174 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

176. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality propose to employ, or the remuneration assigned by the municipality to those persons, or to any particular person, is excessive, the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

Governor in Council may require any City Municipality to appoint a Chief Officer, Health Officer, or an Engineer.

177. (*1*) It shall be lawful for the Governor in Council—

(i) to require, if in his opinion at any time such an appointment is necessary, the appointment of a Chief Officer or of a Health Officer, or of an Engineer, or any one or more of such appointments, to be made by any city municipality.

(ii) to make in his discretion an order vetoing the appointment, or continuance in any such office, of any person selected therefor or appoint-

ed thereto by any such municipality, and the tenure of such office by any such person shall cease and dertermine on and from the date on which such order is communicated to the municipality ;

(iii) to require that any person appointed to be a Chief Officer shall be invested by any such municipality with all or any of the powers which can under this Act or under any rules in force at the time be lawfully delegated to him, in addition to such powers as are conferred on him by section 183 ;

(iv) to require that all or any of the powers referred to in section 144 or in section 145 (if the conditions under which that section comes into operation exist), shall be delegated by any such municipality, whether there be a Chief Officer or not, to the President, Vice-President or any such councillor as the Governor in Council may deem fit.

(*2*) Any requisition issued to the municipality under clause (i), (iii) or (iv) of sub-section (*1*) above shall be complied with within such time as the Governor in Council may in each case prescribe in that behalf.

Power of Government to provide for performance of duties in default of Municipality.

178. (*1*) When the Governor in Council is informed, on complaint made or otherwise, that a municipality have made default in performing any duty imposed on them by or under this Act, or by or under any enactment for the time being in force, the Governor in Council, if satisfied after due inquiry that the municipality have been guilty of the alleged default, may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

Power of Government to supersede Municipality in case of incompetency, default or abuse of powers.

179. (*1*) If, in the opinion of the Governor in Council, any municipality are not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act, or otherwise by law, or exceed or abuse their powers, the Governor in Council may, by an order published, with the reasons for making it, in the Bombay Government Gazette, declare the municipality to be incompetent or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order.

Consequences of exercise of such power.

(*2*) When the municipality are so superseded, the following consequences shall ensue :—

(*a*) all councillors of the municipality shall, as from the date of the order, vacate their offices as such councillors ;

(*b*) all powers and duties of the municipality shall, during the period of supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in that behalf ;

(*c*) all property vested in the municipality shall, during the period of supersession, vest in His Majesty.

Power after enquiry to continue period of supersession.

(*3*) If, after enquiry made, the Governor in Council so directs, the period of supersession with all the consequences aforesaid shall from time to time be continued by an order published as aforesaid until such date as may be fixed by the Governor in Council for the re-establishment of the municipality.

(*4*) The municipality shall be re-established by the election or appointment of new councillors under the provisions of this Act applicable thereto,

(*a*) if no direction has been made under sub-section (*3*), then on the expiration of the period specified in the order of supersession under sub-section (*1*), and

(*b*) if a direction has been made under sub-section (*3*), then on such date as is fixed under that section for the re-establishment of the municipality.

Powers of Government and of the Commissioners over Collectors, etc.

180. In all matters connected with this Act, the Governor in Council each Commissioner and each Collector shall, respectively, have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, as he has and exercises over them in the general and revenue administration.

CHAPTER XIII.

Special Provisions for City Municipalities.

Constitution of City Municipalities.

181. (*1*) The Governor in Council may, at any time, in respect of any municipal district which contains a population of not less than fifteen thousand inhabitants, declare, by notification, the municipality thereof, which shall be specified in the notification, to be a City municipality.

(*2*) The Governor in Council may, in respect of any municipality so declared, or in respect of any municipality specified in Schedule E, direct by notification, specifying such municipality, that from such date as shall be fixed by the notification containing such direction, the municipality specified shall cease to be

a City municipality, and such municipality shall, on the date fixed, cease to be a City municipality accordingly.

City Municipality may appoint a Chief Officer, Health Officer and Engineer.

182. (*1*) Any City municipality may, if they think fit, appoint a chief officer and a health officer and an engineer, or any one or more of such officers or such municipality may in their discretion appoint one person, whether temporarily or permanently, to discharge the duties of any two or of all of such offices.

(*2*) No such officer shall, save with the previous sanction of the Governor in Council, be removable from office unless by the votes of at least three-fourths of the whole number of councillors.

(*3*) When a chief officer shall have been appointed, all other officers and servants employed by the municipality shall be subordinate to him.

Powers of Chief Officer.

183. The chief officer in a city municipality shall exercise the powers hereinafter specified, and such other powers as may be delegated to him by the municipality under the provisions of this Act:

(*a*) he shall have power, subject to the provisions of this Act and of the by-laws for the time being in force thereunder, to grant, give and issue under his signature all licenses and permissions which may be granted or given by a municipality under this Act, other than licenses for markets or slaughter-houses; and

(*b*) he may, subject to the provisions aforesaid, at his discretion suspend, withhold or withdraw any license, in any case in which he is empowered as aforesaid to grant or give a license, and in which the municipality may under the provisions aforesaid, suspend, withhold or withdraw such license;

(*c*) he shall receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid;

(*d*) he may make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, and exercise all such powers as may be made, given, issued or exercised by a municipality under any provisions contained in—

(i) sub-section (*2*) of section 91,

(ii) [1][sub-section (*2*),] sub-section (*3*) or clause (*a*) of sub-section (*5*) of section 96,

(iii) section 102,

(iv) sub-section (*1*) of section 110,

(v) section 111,

(vi) section 114.

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[1] "Sub-section (2)" was substituted for "sub-section (1)" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

(vii) section 115,
(viii) section 118,
(ix) section 119,
(x) section 121,
(xi) section 122,
(xii) section 123,
(xiii) section 124,
(xiv) section 125,
(xv) section 126,
(xvi) section 127,
(xvii) section 128,
(xviii) section 130,
(xix) sub-section (*1*) of section 131,
(xx) section 132,
(xxi) section 134,
(xxii) section 142,
(xxiii) section 143,
(xxiv) clause (*b*) of sub-section (*2*) of section 144.

Chief Officer's powers of appointment and punishment.

184. The chief officer shall have, independently of such powers as may be delegated to him by the municipality in this behalf, power—

(*a*) to appoint—

(i) without the previous sanction of the municipality, to any post the monthly salary for which as fixed by rules made under clause (*b*) of section 46 does not exceed Rs. 15, and

(ii) with such previous sanction, in each case, to any post under the municipality other than that of the health officer, engineer or chief accountant, and

(*b*) to fine, reduce, suspend, or dismiss any municipal servant whose salary does not exceed Rs. 15, and, subject to the provisions of the rules for the time being in force, any other municipal officer or servant not being the health officer, engineer or chief accountant, provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal to the municipality.

Delegation of Chief Officer's powers.

185. The chief officer may, with the sanction of the municipality, delegate any of the powers conferred on him to any officer subordinate to him.

Chief Officer may take part in discussions.

186. (*1*) The chief officer may, with the permission of the president, or in virtue of a resolution passed in this behalf at any meeting of the municipality or of any committee, make an explanation in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at any such meeting.

CHAPTER XIV.

NOTIFIED AREAS.

Constitution of notified areas

187. (*1*) The Governor in Council may by notification declare that with respect to some or all of the matters upon which a municipal fund may be expended under this Act, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipal district under section 7.

(*2*) An area in regard to which a notification has been issued under sub-section (*1*) is hereinafter called a notified area.

(*3*) No area shall be made a notified area unless it

(i) contains a town which is the head-quarters of a táluka, or

(ii) is within a distance of one mile from a railway station :

and no such area shall include two or more towns or villages which are separated by an extent of more than one mile of land unoccupied by houses.

Power of Government to impose taxation and regulate expenditure of the proceeds thereof.

188. (*1*) The Governor in Council may by notification

[1][(*a*) apply or adapt to any notified area the provisions of any section of this Act, or part of any such section, or of any rules in force or which can be imposed in any municipal district under the provisions of this Act, subject to such restrictions and modifications, if any, as he may think fit] ;

(*b*) impose in any such area any tax, which might be imposed therein under the provisions of this Act if the said area were a municipal district ;

(*c*) appoint a person or a committee for the purposes of the assessment and recovery of any tax imposed under clause (*b*), and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any sections [2][or rules applied or adapted] under clause (*a*) :

Provided that in any such area as is described in clause (i) of sub-section (*3*) of section 187, a committee shall be appointed for such purposes consisting of not less than three or more than five persons, of whom a majority shall be residents of such area.

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[1] Clause (*a*) was substituted by s. 2 (1) (*a*) of the Bombay District Municipal Act Amendment Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

The original clause was as follows :—

"(*a*) apply to any notified area the provisions of any section of this Act, subject to such restrictions and modifications, if any, as he may think fit ;"

[2] These words were substituted for "applied" by s. 2 (1) (*b*) of the Bombay District Municipal Act Amendment Act, 1903 (Bom. Act 3 of 1903), *infra*, p. 1698.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which if the notified area were a municipal district, the municipal fund thereof might be expended.

Application of Act to notified areas.

189. For the purposes of any section of this Act which may be [1][applied] to a notified area, the person or committee appointed for such area under section 188 shall be deemed to be a Municipality under this Act, and the area shall be deemed to be a municipal district.

Preliminaries to notification.

190. (*1*) Before issuing any notification under sub-section (*1*) of section 187 or under clause (*a*) or (*b*) of sub-section (*1*) of section 188, the Governor in Council shall, so far as may be, follow the procedure prescribed in section 8.

Power to cancel notification.

(2) The Governor in Council may at any time cancel any notification under section 187 or 188.

Application of funds of areas ceasing to be notified.

191. When by reason of any order of cancellation under the last foregoing section any area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 188 shall be applied for the benefit of the inhabitants of the said area as the Governor in Council may think fit.

SCHEDULE A.

(*See* [2][clause (*b*) of section 60).]

* To be inserted if the tax is to be substituted for any existing tax.

Notice is hereby given to the inhabitants of the municipal district of that the Municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the Rules appended, (in lieu of the tax known as the which is published at page of the sanctioned Rules.)*

Any inhabitant of the municipal district objecting to the proposed tax may, within [3][one month] from the date of this notice, send his objections in writing to the Municipality.

RULES.

(*The rules prepared by the Municipality under* [2][*clause* (*b*) *of section* 60] *are to be appended here.*)

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1 "Applied" was substituted for "extended" by s. 2 (2) of Bom. Act 3 of 1903, *infra*, p. 1698.

2 These words and figures were substituted for the words and figures "clause (*b*) of sub-section 3 of section 60" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

3 "One month" was substituted for "a fortnight" by s. 2 of Bom. Act 3 of 1902.

SCHEDULE B.

(*See* sub-section (*3*) of section 82.)

Form of Notice of Demand.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of (*here describe the property or other subject in respect of which the tax is leviable*) leviable under Rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the municipality, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19 .

(Signed)

By order of the municipality of

SCHEDULE C.

(*See* sub-section (*1*) of section 83.)

Form of Warrant.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas *A. B.* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 and ending with the day of 19 , and leviable under rule No. ;

And whereas fifteen days have elapsed since the service on him of Notice of Demand for the same ;

* (Here describe the tax.)

(*Schedule D.*)

This is to command you to distrain, subject to the provisions of section 83 of the Bombay District Municipal Act, 1901, the goods and chattels of the said *A.B.* to the amount of , being the amount due from him, as follows :—

	Rs.	a.	p.
On Account of the said tax			
For service of Notice			

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19 .

(Signed)

President (or as the case may be), see section 83 (*2*).

SCHEDULE D.[1]

(*See* clause (*c*) of sub-section (*4*) of section 83 [2][and sub-section (*1*) of section 79.]

(*Form of Inventory and Notice.*)

To

A. B.,

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 , together with Rs. due as for service of notice of demand, and that unless within five days from the day of the date of this notice you pay into the Municipal Office at the said amount together with the costs of recovery, the said goods and chattels will be sold.

* Here describe the tax.)

Dated this day of 19 .

(Signature of officer executing the warrant.)

INVENTORY.

(*Here state particulars of goods and chattels seized.*)

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1 *See* second footnote on p. 1574, *supra*.

2 These words and figures were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

(*Schedules B and C*)

SCHEDULE B.

(*See* sub-section (*3*) of section 82.)

Form of Notice of Demand.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of (*here describe the property or other subject in respect of which the tax is leviable*) leviable under Rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the municipality, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19 .

(Signed)

By order of the municipality of

SCHEDULE C.

(*See* sub-section (*1*) of section 83.)

Form of Warrant.

(*Here insert the name of the officer charged with the execution of the warrant.*)

Whereas *A. B.* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 and ending with the day of 19 , and leviable under rule No. ;

And whereas fifteen days have elapsed since the service on him of Notice of Demand for the same ;

* (Here describe the tax.)

SCHEDULE E.

(*See* clause (*1*) of section 3 and sub-section (*2*) of section 181.)

Name of Municipality.	Division.
Ahmedabad Broach Surat	Northern Division.
Belgaum Dhárwár Hubli	Southern Division.
Sholápur Ahmednagar Násik Poona	Central Division.
Karáchi Hyderabad Shikárpur Sukkur	Province of Sind

BOMBAY ACT No. IV OF 1901.[1]

[*6th April, 1901.*]

An Act to amend the City of Bombay Improvement Act, 1898.

WHEREAS it is expedient to amend the City of Bombay Improvement Act, 1898 : It is hereby enacted as follows :—

Bom. Act IV of 1898.

1. This Act may be cited as the City of Bombay Improvement Amendment Act, 1901, and shall be construed as part of the City of Bombay Improvement Act, 1898, hereinafter referred to as the said Act.

2. In sub-section (2) of section 19 of the said Act, the words "and two other Trustees" shall be omitted.

3. After section 19 of the said Act there shall be inserted the following new section, namely :

[*Supra*, p. 1443.]

4. For sub-section (2) of section 31 of the said Act there shall be substituted the following sub-section, namely :

[*Supra*, p. 1448.]

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. I, p. 99, and for Proceedings in Council, *see ibid*, p. 172.

(*Schedule D.*)

This is to command you to distrain, subject to the provisions of section 83 of the Bombay District Municipal Act, 1901, the goods and chattels of the said *A.B.* to the amount of , being the amount due from him, as follows :—

	Rs.	a.	p.
On Account of the said tax			
For service of Notice			

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19 .

(Signed)

President (or as the case may be), see section 83 (*2*).

SCHEDULE D.[1]

(*See* clause (*c*) of sub-section (*4*) of section 83 [2][and sub-section (*1*) of section 79.]

(*Form of Inventory and Notice.*)

To

A. B.,

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 , together with Rs. due as for service of notice of demand, and that unless within five days from the day of the date of this notice you pay into the Municipal Office at the said amount together with the costs of recovery, the said goods and chattels will be sold.

* Here describe the tax.)

Dated this day of 19 .

(Signature of officer executing the warrant.)

INVENTORY.

(*Here state particulars of goods and chattels seized.*)

---

1 *See* second footnote on p. 1574, *supra*.

2 These words and figures were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. Act 3 of 1902), *infra*, p. 1642.

SCHEDULE E.

(*See* clause (*1*) of section 3 and sub-section (*2*) of section 181.)

Name of Municipality.	Division.
Ahmedabad Broach Surat	Northern Division.
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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1901, Pt. I, p. 99, and for Proceedings in Council, *see ibid*, p. 172.